CHAPTER 10

RELOCATION ASSISTANCE
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(REV 8/2018)

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10.00.00.00 - RELOCATION ASSISTANCE

10.01.00.00 - GENERAL

10.01.01.00 Relocation Assistance Program

This chapter covers procedures for implementing the Relocation Assistance Program (RAP) in accordance with applicable laws, regulations, and policies. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (as amended), Title 49 Code of Federal Regulations (CFR) Part 24, Government Code 7260 et seq., and California Code of Regulations 6000 et seq., serve as the basis for the policies and procedures of the California Department of Transportation (Department).

10.01.01.01 Purpose

The purpose of RAP is to ensure that persons displaced as a result of a state highway project are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and to ensure that the Department implements the Uniform Act and 49 CFR 24 in a manner that is efficient and cost effective.

All relocation services and benefits are administered without regard to race, color, national origin, persons with disabilities, religion, sex or age in compliance with Title VI of the Civil Rights Act (42 U.S.C. 2000d, et seq.), Title II of the Americans with Disabilities Act of 1990, Executive Order 12250, and the Age Discrimination Act of 1975.

10.01.02.00 Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970 (as amended)

Public Law 91-646, which is known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), became effective January 2, 1971. For the first time, the United States had adopted measures to be uniformly applied whenever the federal government acquired real property or when property acquisition involved the use of federal funds.

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The Uniform Act sets minimum standards of benefits and compensation for relocation advisory and financial benefits, and established basic standards and requirements for appraisal and acquisition to be followed in acquiring real property. The Uniform Act is not an entitlement program, but rather a reimbursement program to assist in relocating to a new site.

10.01.02.01 Title 49 Code of Federal Regulations Part 24 (49 CFR 24)

The CFRs provide the rules that must be followed in order to comply with the law. 49 CFR 24 ensures Uniform Act compliance. Its purpose is:

> *To provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs.*

Compliance with the Uniform Act is required for all projects on the State Highway System (regardless of funding source), all federal-aid projects, and all Local, Streets and Roads (LS&R) projects (also referred to as "Local Grant," "Local Entity," "Local Assistance," or "Off-System" projects. See 17.01.01.04.).

The policies and procedures in this chapter will ensure that all persons impacted by a public project are treated fairly and equitably. Further, the uniform application of these policies and procedures will prevent fraud, waste, and abuse of the Department's resources. Periodic reviews of delegations, quality, and compliance are conducted to ensure full compliance [49 CFR 24.4(c)].

Note: Appendix A of 49 CFR 24 is an integral part of the regulations; and, while it does not impose mandatory requirements, it does provide additional guidance and information concerning the purpose and intent of a number of provisions in Part 24.

The Uniform Act was amended on July 6, 2012. Many of the changes are effective October 1, 2014. This Chapter includes all new requirements contained in the Uniform Act effective October 1, 2014.

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10.01.02.02 Compliance with other Laws and Regulations

The application of this chapter must be in compliance with other state and federal laws and regulations including, but not limited to, the following:

a) California Government Code
b) California Code of Regulations
c) California Code of Civil Procedures
d) California Health and Safety Code
e) California Streets and Highway Code
f) Civil Rights Act of 1866
g) Civil Rights Act of 1964
h) Civil Rights Act of 1968
i) The National Environmental Protection Act of 1969
j) The Rehabilitation Act of 1973
k) The Flood Disaster Protection Act of 1973
l) The Age Discrimination Act of 1975
m) Executive Order 11063, as amended by Executive Order 12892
n) Executive Order 11246
o) Executive Order 11625
p) Executive Order 11988 and 11990
q) Executive Order 12250
r) Executive Order 12630
s) Robert T. Stafford Disaster Relief and Emergency Assistance Act
t) Executive Order 12892

10.01.03.00 Displacements

Any person, household, business, farm, or nonprofit organization displaced by a public project may be entitled to relocation benefits if they are in occupancy of the property being acquired at the time of the Initiation of Negotiations (ION). Persons and entities displaced by a project and determined to be eligible for benefits are classified as a "displacee."

In some cases, the occupants of the property to be acquired may need to relocate prior to the ION. The Region/District may issue a Notice of Intent to Acquire (NIA) to the owner-occupants to preserve their relocation benefits (10.01.08.01).

The amount and type of benefits will vary depending upon the type and length of occupancy (Table 10.01-A).

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10.01.03.01 Displaced Person [49 CFR 24.2(a)(9)(i)]

The term "displaced person" (or displacee) means any person who moves from the real property or moves his or her personal property from the real property as the direct result of:

- A written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project.
- A written notice of intent to acquire, or the acquisition, rehabilitation, or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under the Uniform Act applies only for purposes of obtaining relocation assistance advisory services under 49 CFR 24.205(c), and moving expenses under 49 CFR 24.301, 24.302 or 24.303, 24.304.

This includes persons who occupy the real property prior to its acquisition, but who do not meet the length of occupancy requirements of the Uniform Act (10.01.03.04).

Displaced persons must be fully informed of their rights and entitlements to relocation assistance and payments provided by the Uniform Act.

10.01.03.02 Persons Not Displaced [49 CFR 24.2(a)(9)(ii)]

Persons not considered "displaced" for purposes of obtaining relocation benefits are those who:

1) Move before the initiation of negotiations unless the Region/District issued a Notice of Intent to Acquire.
2) Initially entered into occupancy of the property after the date of its acquisition for the project.
3) Occupied the property for the sole purpose of obtaining benefits under the Uniform Act. (The burden of proof is on the Region/District RAP Senior).
4) Are not required to relocate permanently as a direct result of a project as determined by the Region/District DDC. This can be because it is a temporary easement or because the partial acquisition does not require they relocate from the remainder. However, if the remainder has been determined to be an Uneconomic Remnant [49 CFR 24.2(a)(27)], then the occupant on the property is considered a displacee.
5) After receiving a Notice of Eligibility, are notified in writing that he or she will not be displaced for a project. Such notice shall not be issued unless the person has not moved and the Region/District agrees to reimburse

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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.

6) Retain the right of use and occupancy of the real property for life, or some other fixed term, following its acquisition by the Department.
7) Are not lawfully present in the United States and who have been determined to be ineligible for relocation benefits in accordance with 49 CFR 24.208. The term "citizen," for purposes of this part, includes both citizens of the United States and noncitizen nationals. The term "State" refers to any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or a political subdivision of any of these jurisdictions.
8) Voluntarily sell or donate their property to the Department under the following conditions:
    i. The property is not a specific site that is required for the project.
    ii. The property is not part of an intended, planned, or designated project area where all of the property within the area is to be acquired within specific time limits.
    iii. The property will not be acquired if negotiations fail to result in an amicable agreement, and the owner is so informed in writing.
    iv. The owner will be provided in writing of what the Department believes to be the market value of the property.

Please note: The displacement of a tenant on real property that was acquired by the Department through a voluntary transaction is entitled to relocation benefits.

There are circumstances where the acquisition of real property takes place without the intent or necessity that an occupant of the property be permanently displaced. Because such occupants are not considered "displaced person" under this part, great care must be exercised to ensure that they are treated fairly and equitably. For example, a tenant-occupant of a property will not be displaced, but is required to relocate temporarily in connection with the project. The temporarily occupied housing must be decent, safe, and sanitary, and the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving expenses and increased housing costs during the temporary relocation (10.10.05.00).

Any person that disagrees with the Department's determination that he or she is not a displaced person may file an appeal in accordance with 10.09.00.00.

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10.01.03.03 Tenured Occupants

Tenured occupants are those occupants that meet the minimum occupancy requirement for full benefits. They are:

- 90-Day Owner-Occupant - occupants of the household who have lived in AND owned the residence for at least 90 days immediately prior to the ION.
- 90-Day Occupant - members of the household who have lived in but not owned the residence for at least 90 days prior to the ION.

And

- Business, Farms, and Nonprofit Organizations that occupy the property on the day of the ION.

10.01.03.04 Non-Tenured Occupants

Non-Tenured occupants are occupants that do not meet the minimum occupancy requirement, but may still be entitled to some benefits.
Non-Tenured occupants include:

- Less than 90-day occupant - a tenant or an owner who has not lived in the residence for at least 90 days prior to the ION, but is in occupancy at the time of the ION.
- Subsequent occupant - a tenant or owner who moves into the residence after the ION, but before the Department obtains control of the property.

And

- Business, Farms and Nonprofit Organizations that occupy the property after the ION.

While displacees in residence for less than 90 days are eligible to receive payments upon vacating the displacement property at any time after the Initiation of Negotiations, Subsequent occupants must be in occupancy on the day the Department obtains control of the property (Close of Escrow, Effective Order of Possession, or Effective Right of Entry) in order to receive monetary benefits (e.g., moving for residential and nonresidential, replacement housing payments for residential).

Replacement Housing Payments (RHP) for non-tenured residential occupants (both less than 90 days and subsequent) are based on either their rent or their income [49 CFR 24.2(a)(6)(viii)(C)]. The RHP is paid under Last Resort Housing Provisions. Non-Tenured occupants are entitled to Advisory Assistance.

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Anyone who moves into the residence after the date the Department obtains control of the property is not entitled to benefits under the Uniform Act.

10.01.03.05 Unlawful Occupancy [49 CFR 24.2(a)(29)]

Unlawful occupants are **not** entitled to relocation benefits. Unlawful occupants are considered to be:

- Squatters - someone who occupies the property to be acquired but without the owner's permission.
- A person who occupies the property to be acquired that is owned by another, and has received an Eviction Notice or other court action to cause the property to be vacated.

Per 49 CFR 24.206, "Eviction for Cause" is any person who occupies the real property, and is determined to be in unlawful occupancy on the date of the ION, is ineligible to receive relocation payments and advisory assistance. A person is determined to be unlawful if:

a) The person received an eviction notice prior to the ION and, as a result of that notice is later evicted; or
b) The person is evicted after the ION for serious or repeated violation of material terms of the lease or occupancy agreement; and
c) The eviction was not initiated by the owner for the purpose of denying the occupant the right to receive relocation benefits.

10.01.03.06 Constructive Occupancy

To qualify an occupant for replacement housing payments, the dwelling must be the displacee's primary residence. (Payment of moving costs does not require occupancy.)

Where the cause of the displacee's absence is temporary, displacee shall be considered in occupancy. For example, the dwelling is maintained as principal residence, but displacee is:

1) temporarily employed in another location,
2) in the hospital,
3) on vacation,
4) on temporary military duty, or
5) not able to occupy because of a major disaster.

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Displacee can be considered to be in “constructive occupancy” provided that another party has not established eligibility during displacee’s absence.

Cases of constructive occupancy that differ substantially from examples listed above or cases where another party has occupied property and become eligible during the absence must be decided on an individual basis and be fully documented.

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Table 10.01-A - Explanation of Residential Benefits by Occupancy

Occupancy Type and Time	90-Day Owner-Occupant	90-Day Occupant	Non-Tenured (Less than 90-Day Occupant)	Subsequent Occupant (Post-Offer)
Conditions	Eligible to receive payments upon vacating displacement property at any time after ION	Eligible to receive payments upon vacating displacement property at any time after ION	Eligible to receive payments upon vacating displacement property at any time after ION	Must be in occupancy at COE or date of possession
Advisory Assistance	Yes	Yes	Yes	Yes
Moving Expenses	Yes	Yes	Yes	Yes

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Table 10.01-A - Explanation of Residential Benefits by Occupancy (Continued)

Replacement Housing Payments

A. Price Differential (PD), Mortgage Differential (MD), and Incidental Expenses (IE).	Yes	No	No	No
Limited to $31,000 before LRH rules apply.				
B. Rent Differential (RD)	Yes (in lieu of PD, MD, IE)	Yes	Yes	Yes
Requirement for an Income Certification.	No	Optional - at time of determination	Optional - at time of determination	Optional - at time of determination
Limitations	RD based on economic rent, but cannot exceed the calculated PD If PD is zero, RD is limited to $7,200.			
OR- C. Down Payment (DP) including eligible Incidental Expenses	N/A	Yes If RD is zero, DP is $7,200	Yes If RD is zero, DP is $7,200	Yes If RD is zero, DP is zero

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Cases of constructive occupancy that involve the right to occupy a property prior to initiation of negotiations must also be decided on an individual basis and be fully documented. Proof of the right to occupy property can include a written agreement such as a lease, canceled checks, testimony of witnesses, or partial occupancy such as the storage of property.

10.01.03.07 Consequential Displacement

Consequential displacement is displacement of a person, business, farm, or nonprofit organization from the unacquired remaining property as a direct result of acquisition for the proposed project.

Where only a portion of a property is acquired for public purposes, occupants are eligible for relocation payments only insofar as the Region/District DDC determines that their displacement is a direct result of the acquisition. Care must be taken to avoid creating relocation assistance obligations, expressed or implied, by premature or unnecessary delivery of RAP packages or information.

The benefits for which an approved consequential displacee is eligible are determined by the category of occupancy in which displacee falls.

Examples of possible consequential displacements are:

- Rearrangement of remainder property causes displacement of occupants; e.g., acquisition of a portion of a mobile home park or similar operation that causes displacement on remainder in order to restore functional utility by rearranging interior roads or buildings.
- Acquisition of a significant portion of parking area in a business development causes the business to suffer a substantial decrease in net income. Decrease in income must specifically result from reduced parking and not from other causes.
- A business operation (such as a lumberyard) moves from the part taken to the unacquired remainder. Payment for cost of reasonable and necessary rearrangement of personal property on remainder to accommodate the move is proper.
- Residential or business occupants on remainder are left without utility connections as a result of partial taking. Since the Department cannot force owners to reestablish utility connections, occupants can be considered displaced and eligible for applicable benefits.
- Acquisition of a business causes move from unacquired residence because the business and residence need to be in close proximity. In this case, the District must also find that replacement business location is not available within reasonable distance of acquired property. (Since the

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Department will relocate a person whose residence is acquired to a comparable location, a finding of consequential displacement of business to be near owner's residence may not be made.) Applicable benefits in this case are limited to reimbursement of moving expenses and relocation advisory assistance.

- A business that operates at two sites, one of which is acquired. If the operation at the acquired site cannot relocate within a reasonable proximity of the second site, the Agent must determine if the operation of the unacquired site is detrimentally impacted because the two sites were linked by either operation or reliance.

Whenever an appraisal or acquisition settlement indicates taking of access rights will result in substantial impairment of access to a property, the District will investigate to see if any consequential displacement would occur.

Frequently, the need to relocate a business may not be obvious until the relocation assistance stage. The relocation of a business may be necessary even though there are no damages to the real estate and the appraisal does not indicate a business displacement.

The request from the occupant to be considered as a displacee may come through the appraiser, acquisition agent, or RAP Agent. As soon as the request is made, the RAP Senior should discuss the matter thoroughly with the Appraisal and Acquisition Seniors and then submit the matter to the R/DDC for consideration. The request should include a recommendation from the Region/District Project Delivery Seniors. The displacee should be advised in writing of the R/DDC's determination.

If it is denied, the occupant's right to appeal should be explained fully. All appeals on a determination of consequential displacement must be heard by the Statewide Appeals Board (10.09.07.00).

When design changes result in revised settlement offers that cause consequential displacement, the date of the revised offer is used to determine eligibility. Explanations to potential displacees must be stated so they are aware that potential eligibility cannot be firmly determined until after settlement is reached. If settlement is ultimately based on a plan that will not cause displacement from remainder, the occupant must be immediately informed that there is no eligibility for RAP benefits.

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10.01.03.08 Persons Not Lawfully Present in the United States

The phrase "person not lawfully present in the United States" means someone who is not "lawfully present" in the United States as defined in 8 CFR 103.12 and includes:

1) A person present in the United States who has not been admitted or paroled in the United States pursuant to the Immigration and Nationality Act, and whose stay in the United States has not been authorized by the U.S. Attorney General, and
2) A person who is present in the United States after the expiration of the period of stay authorized by the U.S. Attorney General, or who otherwise violates the terms and conditions of admission, parole, or authorization to stay in the United States.

10.01.04.00 Promissory Estoppel

The Doctrine of Promissory Estoppel holds that a promisor is held to a promise if the following conditions are met:

- A promise is made, representing a material fact that something would happen, normally to the benefit of the promisee.
- The promisor could reasonably expect to induce a substantial action on the part of the promisee. In other words, the representation made was such that a person would reasonably believe it.
- The promisee actually takes a substantial action in reliance on the representation, and the promisee substantially changed their position in reliance on the representation.
- A monetary loss, one that is actually suffered or one that will be suffered by the promisee, can only be avoided by enforcement of the promise made.

10.01.05.00 Global Settlements

49 CFR 24 separates the acquisition and relocation activities. The intent is to preclude 'global settlements,' which is the packaging of relocation entitlements with the fair market value to reach an administrative settlement in the acquisition. In addition, 49 CFR 24.207(f) prohibits agencies from requesting that displaced person waive relocation benefits.

Global settlements are not consistent with the requirements of the Uniform Act or 49 CFR 24 in that relocation benefits must be determined in accordance

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with specific fact based criteria. Relocation benefits are a reimbursement of eligible expenses which requires certain actions on the displacee's part prior to receiving a payment. Any settlement of relocation benefits is considered to be in noncompliance with statutory and regulatory requirements.

See 10.03.13.03.

10.01.06.00 Certificates of Occupancy

All persons occupying property to be acquired for a public project must certify to the Department that the displacement property is their primary residence. The Certification requires they list the number of occupants, the length of time the persons have occupied the residence, their status as owner or tenant, and their U.S. Residency status. This is accomplished by completing the Certificate of Occupancy and Receipt of Relocation Benefits (RW 10-25) for owners, the Owner's Certificate of Tenants (RW 10-1), and/or the U.S. Residency Certification (RW 10-44). The information on these forms will determine the occupants' eligibility and status as tenured or non-tenured.

Each form must be acknowledged by the Agent that interviewed the occupants who completed the form.

If an owner cannot provide or refuses to provide necessary information on tenant and lessee occupancies, the RAP Agent shall canvass the property and secure the information directly from the occupants. (Other reasonable methods such as regular or certified mail may also be used.) In such cases, length of prior occupancy may be documented from sources such as rental receipts, canceled checks, and utility bills.

Generally, the same relocation census data (occupancy dates, number of occupants, etc.) required of owners is required for tenants and lessees. At the first personal contact with tenants and lessees, the RAP Agent will confirm any census data (plus rent payments and utility costs) provided by the owner and obtain any missing information. Variations shall be resolved and explained in the RAP Diary.

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10.01.07.00 Moves Prior to Initiation of Negotiation

The Agent shall advise initial owner-occupants and initial tenant-occupants that relocation payments cannot be made until the State has initiated negotiations to acquire the property, except as otherwise provided for in connection with a Notice of Intent to Acquire. Occupants must be made aware that they may lose RAP eligibility if they move before initiation of negotiations.

10.01.08.00 Initiation of Negotiations

The term "initiation of negotiations" is the day the Acquisition Agent presents, in writing, the amount of just compensation (determined to be fair market value) to acquire the property for a public project, defined as the First Written Offer (FWO).

However, if the Department has issued a Notice of Intent to Acquire (NIA), then the date of the letter becomes the date of the ION.

10.01.08.01 Notice of Intent to Acquire

In rare cases, an owner-occupant may need to relocate prior to the anticipated ION. That person should contact the Region/District RAP Senior to determine the time frame for the ION and if the occupants should be issued a Notice of Intent to Acquire (NIA) to preserve their relocation benefits.

Issuing an NIA informs the owner-occupants that the Department will be acquiring their property for a public project, and that they can relocate prior to the First Written Offer without jeopardizing their relocation benefits.

A Notice of Intent to Acquire to preserve relocation benefits is available to tenants or lessees under certain circumstances. See Section 10.03.04.00 for more information.

10.01.08.02 Move Prior to Control of the Property

Any tenured occupant may move from the property to be acquired after the ION and receive full benefits. However, to prevent a non-tenured occupant from moving in and possibly receiving benefits, the Region/District should consider an agreement to rent the property back from the owner and immediately initiate proceedings to complete the acquisition (including condemnation action).

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Non-tenured occupants must be in the property at the time the State obtains control in order to receive any relocation benefits (Table 10.01-A).

10.01.09.00 Relocation Benefits

Eligible displacees may be entitled to Advisory Assistance, Moving Costs, and Replacement Housing Payments.

- Advisory Assistance is available to anyone who occupied the real property when acquired by the Department.
- Moving Costs will be reimbursed for actual, reasonable and necessary expenses and are available to anyone who must move personal property from the real property acquired by the Department.
- Replacement Housing Payments are available for residential occupants based on type and length of occupancy at the time the Department initiates negotiations to acquire the real property.

10.01.09.01 Advisory Assistance [49 CFR 24.205(c)]

The Uniform Act requires that the Department establish a relocation assistance advisory program which satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), and Executive Order 11063 (27 FR 11527, November 24, 1962), and offers the services described below (see 10.01.09.02).

The specific goal of Advisory Assistance is to minimize the hardships people might experience in adjusting to their relocation. On projects requiring a significant number of displacements, the establishment of a relocation office in a convenient location for the displaced persons is encouraged if the district office is not easily accessible to those displaced.

10.01.09.02 Specific Advisory Services

Relocation assistance advisory services are provided primarily to assist:

- Persons in relocating to "decent, safe, and sanitary" (DS&S) housing that meets their needs and is within their financial means.

- Businesses, nonprofits, and farm operators in obtaining and becoming established in a suitable replacement location.

In addition, Advisory Assistance is intended to emphasize that if the comparable replacement properties are located in areas of minority

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concentration, minority persons shall be given reasonable opportunities to relocate to replacement properties not located in such areas.

A personal interview shall be conducted with each occupant to determine the relocation needs and preferences of each person being displaced. An explanation of available relocation benefits should also be provided at this time. If personal contact cannot be made, the Agent shall document the file to show that conscientious efforts were made and explain why such efforts were unsuccessful.

The RAP Agent is responsible for providing current and continuing information throughout the relocation process, including:

- an explanation of eligibility requirements for relocation payments and the appeal process.
- translation services to adequately explain the RAP Program to persons with limited English proficiency.
- information on the availability, purchase prices, rental costs, and financing terms of comparable replacement dwellings and/or nonresidential sites.
- assurance that no one will be required to move unless at least one comparable replacement dwelling is made available.
- an explanation about the eviction policies to be pursued in carrying out the project.
- an address, in writing, of the specific comparable replacement dwelling used to establish the maximum replacement housing payment.
- inspection of the replacement property to ensure it meets DS&S standards.
- offer of transportation for all persons to inspect housing to which they are referred.
- assistance in locating and obtaining a replacement property, including assistance in completing required applications and other forms.
- assistance in completing the Department's claim forms, and if necessary, a request for a Relocation Assistance Appeal.
- counseling advice as to other sources of benefits that may be available, such as information on Federal and State housing programs, disaster loans, and other programs (e.g., SBA, FHA, HUD).
- Other advisory assistance, as needed, to minimize hardship.

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10.01.09.03 Eligibility for Advisory Assistance

Services shall be offered to all persons occupying property:

- acquired or to be acquired
- immediately adjacent to the acquired real property if the Department believes they may have difficulty adjusting to changes resulting from the acquisition
- that was acquired, and choose to relocate their adjacent residence, business, or farm operation
- after it was acquired by the Department, when displacement causes a hardship for that person because of a critical housing shortage, age, handicap, infirmity, lack of financial means, or other circumstances

No services shall be offered to persons or businesses not certified as lawfully present in the United States.

10.01.09.04 Moving Costs

Any occupant who qualifies as a "displacee" is entitled to payment for the actual moving and related expenses of personal property on the displacement property to the replacement property for up to 50 miles. The cost of relocating real property retained by the owner is the responsibility of the owner.

The payment varies between residential and nonresidential occupants. See Section 10.04.02.00 for residential and 10.05.04.00 for nonresidential.

10.01.09.05 Replacement Housing Payments (RHP)

A residential displacee is eligible for an RHP that may assist them in relocating to a replacement property. The type and amount of the payment vary between tenured and non-tenured occupants, and between owners and tenants.

- 90-Day Owner-Occupants may be entitled to an RHP which is comprised of a Purchase Differential, Incidental Expenses, and a Mortgage Interest Differential.
- 90-Day Occupants and Non-Tenured Occupants (owner or tenant) may be entitled to a Rental Differential <u>or</u> a DP.

The amount of the Purchase Differential and the Rental Differential is determined by preparing a Replacement Housing Valuation (RHV) that ensures there is a replacement property available on the market that is

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comparable to the property being acquired by the Department, and meets the DS&S standards established in the Uniform Act.

Additionally, the residential occupants must meet the following requirements in order to receive the full amount of their calculated RHP:

- Occupy a DS&S residential dwelling, within one (1) year of the eligibility date.
- Spend at least the amount of the comparable replacement property (as determined by an approved RHV) on the actual replacement property.
- Submit a claim for their eligible RHPs within 18 months of the eligibility date.

10.01.09.06 Relocation Payments

RHPs are not payable after death of the displacee, unless there has been some reliance on the part of the displacee's family or business operation [49 CFR 24.403(f)]. Items of personal property needing to be moved may be reimbursed to the displacee's family or estate.

Relocation Housing Payments are limited to $31,000 for 90-day owner-occupants and $7,200 for 90-day/less than 90-day occupants before consideration must be given to Last Resort Housing (LRH).

Moving Costs and RHPs are not subject to income tax, nor should they impact a displacee's eligibility for Social Security.

49 CFR 24.209 specifically states that relocation payments shall not be considered as income for the purpose of the Internal Revenue Code, nor shall the payments be considered in determining the eligibility of any person for benefits under any provision of federal law (e.g., Social Security benefits), except a federal law providing low-income housing assistance.

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10.01.10.00 Relocation Assistance Program Package

The RAP package is a collection of informational material given to eligible displacees to explain RAP. Although content will vary among residential and nonresidential occupants and between tenured and non-tenured, the material must include:

- **Standard Relocation Brochure** - residential, mobile home or nonresidential, as appropriate.

- **Title VI Brochure** (if not received from a prior contact)

- **Notice of Eligibility** - stating kinds of benefits the specific displacee may be eligible to receive. (This will be followed by a Conditional Entitlement Letter outlining the specific amounts of benefits the displacee may be eligible to receive.)

- **U.S. Residency Certification Form** (signed in accordance with 10.01.11.00).

- **Certificate of Occupancy -** appropriate form or forms.

  OPTIONAL INFORMATION:

- **Other Information** - pertinent to the specific type of eligibility involved; e.g., "Fair Housing" pamphlets and Small Business Administration loan information.

The Acquisition Agent delivers the RAP Package at the time of the ION to the owners (or by a RAP Agent who accompanies the Acquisition Agent). The RAP Agent delivers the RAP Package to tenants within 14 days of the ION to the owner.

IMPORTANT: The RAP package must be delivered and an offer of relocation benefits made to initial tenants and lessees within 14 days of the ION, either in person or by certified mail. If delivery is by certified mail, the Agent must make a personal call to review the program and answer questions within 30 days following the ION.

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10.01.11.00 Certification of U.S. Residency Requirement [49 CFR 24.208(a) and (b)]

Each person seeking relocation payments or relocation advisory assistance shall, as a condition of eligibility, certify:

1) In the case of an individual, that he or she is either a citizen or national of the U.S., or a person who is lawfully present in the U.S.
2) In the case of a family, that each family member is either a citizen or national of the U.S., or a person who is lawfully present in the U.S. The certification may be made by the head of the household on behalf of other family members.
3) In the case of an unincorporated business, farm, or nonprofit organization, that each owner is either a citizen or national of the U.S., or a person who is lawfully present in the U.S. The certification may be made by the principal owner, manager, or operating officer on behalf of other persons who have an ownership interest.
4) In the case of an incorporated business, farm, or nonprofit organization, that the corporation is authorized to conduct business within the U.S.

The certification shall indicate whether such person is either a citizen or national of the U.S., or a person who is lawfully present in the U.S.

Certification will be made on RW 10-44 and must be in the RAP File prior to giving relocation advisory assistance and prior to approval of any claims. It should be obtained at the time the owner or tenant signs the Certificate of Occupancy or receives the Notice of Eligibility, whichever is earlier.

10.01.11.01 Benefit Computation [49 CFR 24.208(c)]

In computing relocation payments under the Uniform Act, if any member of a household or owner of an unincorporated business, farm, or nonprofit organization is determined to be ineligible because of a failure to be legally present in the U.S., no relocation payments may be made to him or her. Any payment for which such household, unincorporated business, farm, or nonprofit organization would otherwise be eligible shall be computed for the household, based on the number of eligible household members and for the unincorporated business, farm, or nonprofit organization, based on the ratio of ownership between eligible and ineligible owners.

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10.01.11.02 Validity of Certification for U.S. Residency [49 CFR 24.208(d)]

The RAP Agent shall consider the certification that is signed under penalty of perjury by the displacee to be valid. Documentation will not be requested from the displacee.

If the person signing the Certification for U.S. Residency is unsure if their status qualifies for purposes of relocation benefits, the RAP Agent must refer them to the Bureau of Citizenship and Immigration Service (BCIS) for clarification. The RAP Agent must retain the Certification until BCIS has verified the person and status, then the person can request the RAP Agent return the form for execution. As a matter of practice, the RAP Agent should advise the person in writing, that receipt of the Certification would be required before relocation benefits can be discussed. If no information is received from the person, the RAP Senior should investigate and follow up with a letter advising the person that a nonresponse or an unexecuted Certification within 60 days will be considered as the person's admission that they are not present in the U.S. legally, and thus they will be denied relocation benefits.

10.01.11.03 Documentation [49 CFR 24.208(e)]

Since the certification is signed under penalty of perjury, it will not be necessary to verify the validity of the information provided by the displacees. However, should the displacee request assistance in determining if all occupants are legal residents, the agent can provide information on what documentation is considered proof of legal status. The displacee can provide any documentation they have on hand and ask the Agent to determine if it meets the requirements established by BCIS (see Exhibit C on the R/W RAP Intranet). If the displacee has documentation that is not on the list, they can pursue the matter directly with BCIS to determine their legal status, and, once their legal status is verified by BCIS, the displacee can sign the Certification. Documentation will not be requested from the displacee unless the displacee has volunteered the information to ensure they meet the requirements. The certification will be kept in the RAP file, and the RAP diary will note that the Agent obtained a signed document. The diary should also note if the number of legal occupants is less than noted in previous documents (e.g., Occupancy Data Sheet, Certification of Occupancy).

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10.01.11.04 Denial of Benefits [49 CFR 24.208(g)]

No relocation payments or relocation advisory assistance shall be provided to a person who has not provided the certification described in this section or who has been determined to be not lawfully present in the U.S., unless such person can demonstrate to the displacing agency'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 U.S., or is a person lawfully admitted for permanent residence in the U.S.

Persons not lawfully present in the U.S. are not eligible for relocation benefits or advisory assistance.

10.01.11.05 Return of Payment

The claim form for relocation benefits signed by the displacee shall state that only lawful U.S. residents are entitled to relocation benefits.

If within 18 months after the following dates the Department determines that the displacee's certification was invalid, the displacee will be contacted and advised that all relocation payments must be returned.

1) For tenants, the date of displacement.
2) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

See 10.08.13.00 for information on how to process a request for the return of the payment.

10.01.11.06 Hardship Situations

In extremely rare circumstances, the denial of benefits to an uncertified occupant may create a severe hardship on the remaining certified occupants. The eligible occupants may submit a claim for benefits for the uncertified occupant and request that the denial of the benefits be reconsidered because of their particular situation. In order to claim benefits, the certified occupant must demonstrate to the Department's satisfaction that denial of the additional benefits to the uncertified occupant will result in an extreme hardship to the remaining occupants, particularly the spouse, parent, or child who is a legal resident. The Region/District DC R/W or designee will determine if the displacee's situation is a hardship. Hardship is defined as:

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1) Significant and demonstrable adverse impact on the health or safety of the spouse, parent, or child; or
2) Significant and demonstrable adverse impact on the continued existence of the family unit of which the spouse, parent, or child is a member.

Note: Income alone will never be considered as the sole criteria in determining hardship.

10.01.12.00 Coordination of Right of Way Activities

As mandated by the 49 CFR 24, all relocation activities must be coordinated with project work and other displacement causing activities (e.g., appraisals, acquisition, and property management).

To ensure that persons displaced receive consistent treatment, and the duplication of functions is minimized, the following sections explain the various roles and responsibilities of FHWA, HQ R/W, and the Region/District functional Senior for Appraisals, Acquisition, Property Management, and RAP.

10.01.12.01 Responsibilities of Headquarters Right of Way

Right of Way (HQ R/W) Project Delivery Office Chief, through the Senior Right of Way Agent for Relocation Assistance:

- Develops policy.
- Establishes procedures.
- Conducts Quality Enhancement Joint Reviews (QEJR).
- Evaluates Region/District performance.
- Provides statewide continuity and leadership, technical assistance for solving unusual problems, and training programs.
- Acts as liaison with the Federal Government, other states, and other State agencies.

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10.01.12.02 Responsibilities of Region/District

The Region/District Division Chief, through the Senior Right of Way Agent responsible for the Relocation Assistance Program:

- Plans and provides all relocation services and payments.
- Provides staff.
- Provides funds.
- Sets project priorities.
- Trains staff.
- Manages resources.

(See 10.01.13.00 for specific activities related to managing the RAP Branch.)

10.01.12.03 Region/District Functional Responsibilities

All R/W Agents who have public contact should have sufficient knowledge of RAP to explain the benefits and how to obtain them. At the very least, they should know whom displacees should contact to obtain this information.

Anyone who contacts occupants of property that might be acquired by the Department should ensure the following message is conveyed (preferably in writing):

> *"You may be eligible for possible relocation payments if you are in occupancy of the property at the time the Department initiates negotiations. You should contact the Right of Way Office immediately if you plan to move before receiving a written offer to acquire your property."*

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10.01.12.04 Responsibility of the Region/District Appraisal Branch

- Give accurate basic relocation information to all potential displacees encountered during the appraisal process.
- Complete the Parcel Occupancy Data Sheet (RW 7-2) at the first meeting or contact with the owner when a primary or alternate appraisal indicates a displacement of people, business, or personal property. Provide the form to the RAP Senior within 24 hours of the initial inspection of the property.
- Inform the RAP Unit of any special relocation problems involving either people or personal property.
- In situations involving appraisal of commercial, industrial, or other properties that include valuation of machinery, equipment, fixtures, and miscellaneous items of realty, provide information on these items as part of the appraisal report in accordance with instructions in the Appraisal Chapter.
- Require that goodwill appraisers indicate in the goodwill appraisal the items and amounts that are or might be a part of a reestablishment or an in-lieu relocation benefits payment.
- Complete a Machinery and Equipment appraisal of trade fixtures and other personalty that will be acquired by the Department. All personalty not acquired must be relocated, so it is imperative the Appraiser works closely with the RAP Senior to determine the appropriate classification of all personalty.
- Notify the RAP Unit of any alternate appraisal or damage element that could result in displacement of people or businesses not contemplated by primary appraisal or readily identified by reference to partial acquisition requirements.
- Show economic and/or actual rental rates for all improved properties in fair market value appraisal (see Appraisal Chapter). Show an unsupported estimate of fair rental rate (economic rent) in market value appraisal for all owner-occupied dwelling units.
- If the District has a policy of initially notifying displacees of monetary benefits under all replacement options, it may also require that supported economic rent for owner-occupied dwelling units be shown in market value appraisal. In these cases, the requirement for support of economic rent determination is the same as for tenant-occupied units.
- Make a determination of real property versus personal property (49 CFR 24.303). This is critical because all payments for moving and related expenses for displaced businesses relate to the moving of personal property. Neither the Uniform Act nor the implementing regulations provide payment for moving real property. The Uniform Act places the

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determination of real property under State law, and requires that all real property be appraised and acquired as part of the real estate being acquired.

The RAP Agent will interview all business displacees immediately after receiving the Parcel Occupancy Data Sheet. To increase the effectiveness of the interview, the RAP Agent may accompany the appraiser during the initial and/or subsequent inspections. (See 10.05.02.00 for additional information.)

10.01.12.05 Responsibilities of the Region/District Acquisition Branch

- At time of initiation of negotiations for the property, personally deliver a RAP Package (10.01.10.00) to each owner-occupant with whom negotiations are conducted and secure a receipt for each Package delivered.
- Explain RAP procedures and benefits to potential displacees using the RAP Package as a guide.
- Obtain a Certificate of Occupancy (RW 10-25) and the U.S. Residency Certificate (RW 10-44) from the owner-occupants.
- Secure a completed Owner's Certification of Tenants (RW 10-1) from owner of the property immediately when negotiations are initiated.
- Contact the RAP Branch prior to completing a goodwill settlement.

  Note: None of the Certificates regarding occupancy need to be signed if it can definitely be established that no personal property will be moved and no relocation benefits payments will be paid. However, because RAP valuations are dependent on proper information, verification of size and composition of family is mandatory.

- Coordinate service of 90-Day, 60-Day, and 30-Day Notices to occupants of properties with the service of the Order of Possession when the Department has initiated condemnation action.
- Ensure a Relocation Impact Document (probably a RIM) is requested when a request for early acquisition due to a hardship is received. Approval of the hardship is contingent upon review and approval of the RID by the Environmental Branch.

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Provide the RAP Senior with the following information and documentation within two working days of receipt:

1. Certificate of Occupancy (RW 10-25).

2. United States Residency Certificate (RW 10-44).

3. Owner's Certification of Tenants (RW 10-1). If the owner or owner's agent refuses to provide the Owner's Certification of Tenants, contact the RAP Unit immediately.

4. Date the Department has control of the property (e.g., Close of escrow, effective Order of Possession, executed Order of Condemnation).

5. The final price paid to the owner (e.g., R/W Contract, Administrative Settlement, Stipulated Judgment).

6. List of all items purchased and/or paid to relocate in lieu of purchase, and any property included in the appraisal but retained by the owner.

The Acquisition Agent must work with the RAP Senior with the status of the negotiations on all properties, especially complex properties that will entail relocation of personal property. The intent is to afford the RAP Unit an opportunity to become familiar with potential large scale business relocations prior to completion of acquisition and possible commencement of a move. An appropriate notation on Certificate of Occupancy or separate notice may accomplish this. The RAP Agent should be afforded an opportunity to accompany the Acquisition Agent to acquire property or otherwise be allowed to inspect property for the purpose of determining scope of potential relocation problem.

The Relocation Assistance Branch must work closely with the Legal Office handling any eminent domain actions in order to prevent global settlements that include relocation benefits payments. In the rare cases when the global settlement includes relocation benefits payments, FHWA will participate if the settlement states the amount of funds that would have been paid out in relocation benefits payments by category, and the RAP file clearly demonstrates that the displacee was advised that any deposit made in excess of the acquisition settlement (including goodwill, inventory, machinery and equipment) will be credited toward relocation benefits payments. Care must be taken to code the portion of relocation benefits payments appropriately because acquisition payment is subject to taxation and capital gains.

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10.01.12.06 Responsibilities of the Region/District Property Management Branch

- Inform the RAP Senior, in writing within 24 hours of first knowledge, of vacation of State-owned property by any RAP eligible.
- Coordinate requests for 30-Day, 60-Day, and 90-Day Notices with eviction proceedings (e.g., 30-Day Notice to Vacate, 3-Day Notice to Quit) sufficiently in advance to ensure orderly relocation of all occupants.
- Inform all noneligible tenants occupying premises leased under Master Tenancy that they are not eligible for relocation benefits payments.
- Provide Title VI Survey Form RW 10-1, and Title VI Brochure to tenants of state-owned property.
- Coordinate sale of excess land or building improvements with RAP Senior to ensure that occupants receive required notices and any relocation payments due.
- Coordinate increase of rental rates with RAP Branch to ensure that increases for RAP-eligible occupants are in accordance with rental policy for residential rental rates. Increases in rental rates for 90-Day Occupants may drastically affect their RHP entitlements.
- Inspections of the real property just prior to or at the close of escrow to determine if the acquired items of realty are still on-site, and explain to displacees who will remain in occupancy that they are responsible for maintenance of the property until they vacate.
- Describe Grace Period, if any, for businesses renting from the State, in the rental agreement.

10.01.13.00 Single Agent ($10,000 and Under)

The Single Agent ($10,000 and Under) allows one agent to appraise and acquire parcels, usually partial acquisitions valued at less than $10,000.

Occasionally, the Single Agent will encounter the need to relocate personal property from the part-take to the remainder, which requires a payment under the relocation assistance program. This may be a permanent relocation; or in the case of a temporary construction easement, a temporary relocation requiring a second move back to the original location after construction work is complete.

The move of the personalty is paid with the "Self-Move Agreement and Claim Form for Under $10,000 Acquisition" (SMA $10K), Form RW 10-47.

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The document only needs to be completed when personal property such as a swing set, a cord of wood, the contents of a shed, or other personalty needs to be moved away from the property needed for the project. If the need for the property is temporary in nature, e.g., a temporary construction easement for a soundwall, the displacee should be paid to move the personal property back upon notification by the agent.

To expedite the relocation process in conjunction with the appraisal and acquisition process, this minimal relocation payment can be paid in advance of the move, but must be paid separate from the acquisition payment (which may be paid directly out of escrow). It is important to note the ownership of the personal property, since some residential and nonresidential sites are occupied by a tenant or lessee. However, the SMA $10K process and form can still be used by the Single Agent who would then ensure payment for the realty is paid to the owner (nonoccupant) and payment for the relocation is paid to the occupant.

The SMA $10K Form includes required clauses governing when the relocation must occur, the mandatory 90-Day notice, and liability clauses. Once the document is signed by the displacee (claimant) and the Single Agent (Right of Way Agent), it can be processed for payment.

The need to incorporate this form into the existing acquisition process is based on FHWA's requirement that acquisition and relocation activities be kept separate, and that no payment for relocation be included in an acquisition payment.

10.01.14.00 Region/District RAP Branch

The Region/District RAP Senior should ensure sufficient staff are assigned to the branch and that there is adequate time to spend with each displacee to ensure the appropriate level of advisory assistance is provided and that claims are processed timely.

RAP Seniors may also be responsible for the preparation of the Relocation Impact Documents (RID) and the R/W Planning Documents (10.02.00.00), and Replacement Housing Valuations (RHV) (10.06.00.00).

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10.01.14.01 Training

Agents assigned to the Relocation Branch should receive adequate training before they have the responsibility to relocate any residential or noncomplex business displacee. Agents assigned to the more complex relocations (e.g., major commercial establishment) or ancillary activities (RHVs, RIDs, or public hearing presentations) should be at the Associate level, have several years of RAP experience, and have received the appropriate advanced training sessions.

The RAP Senior should ensure all staff have adequate training and experience to accomplish assigned tasks in a professional manner.

10.01.14.02 Right of Way Certifications

The RAP Senior must provide information to the Region/District functional unit responsible for finalizing the Right of Way Certification for state highway projects. The RAP Senior must verify that all displacees have vacated and that they were relocated in accordance with applicable Federal and State laws and procedural requirements. See Certification Chapter for a full discussion.

10.01.14.03 Policy and Procedural Manuals

The RAP Senior should ensure each RAP Agent has the current Relocation Assistance procedures outlined in the Relocation Chapter with Exhibits and Forms (with the capability to download the current form onto their computer system), along with any other written guidance and instructions.

The RAP Senior should also keep a stock of current Relocation Assistance Brochures (Residential, Business, and Mobile Home) for use at public hearings, public meetings, and the first RAP call.

Another important tool is the Right of Way Intranet Web site which has a RAP Web site with the newest information on policies, procedures, and interpretations. Agents should be encouraged to utilize the Internet throughout their relocation career. Additional information on 49 CFR Part 24 is available from FHWA.

Most importantly, the Senior Agent is responsible for reviewing the RAP Agent's work products and the parcel files to ensure they comply with all applicable laws and policies, and that the work is being done on time and in accordance with the project schedule.

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10.01.14.04 RAP File

The RAP Branch must maintain a separate file for each parcel and for each entity (e.g., apartment, multiple households, sublessee) that is considered a displacee. A file should also be kept for each person that has been determined not a displacee because of their U.S. residency status, length of time in occupancy, unlawful status, or other reason. RAP Files are numbered with the parcel number and a subnumber to indicate the number of displaced units on the parcel. Review 6.02.03.00 on parcel numbering.

RAP File Parcel Numbering Example:

Owner who has personal property on the site: 123456-01
Tenant who occupies the property: 123456-02
Second and separate household as determined by the agent: 123456-03

The Parcel Occupancy Data Sheet initiates the RAP file; however, any previous correspondence to or from the displacee regarding RAP or their possible status should be included in the file as soon as it is created.

The RAP file shall contain the following information:

- RAP Diary - see below for further details.
- Certificates - of occupancy, of income, and of residency status.
- Correspondence - to and from the displacee or pertaining to the displacement, including Notices of Eligibility, Conditional Entitlements, and Notices to Vacate.
- Replacement Housing Valuation report for all residential units, or the Certified Inventory and photos for a nonresidential unit.
- Claims - copy of claim form and supporting documents.

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10.01.14.05 RAP Diary

Standard Relocation Diary Form RW 10-3 shall be used to maintain a complete and legible diary that can be clearly reproduced. Each diary entry must be entered in pen or typed. Preprinted diaries or diaries maintained in a word processing program are acceptable documents. The use of lead pencils and felt pens should be avoided. Each diary entry must be dated and signed, not initialed.

The following are mandatory entries that will ensure a complete chronological account of the relocation activity:

- Date case was assigned to RAP Agent.
- Date, status, and pending required action when transferred from Agent to Agent.
- Date and place of each personal contact, list of persons present, and particulars of the discussion.
- Date and particulars of all significant phone calls.
- Date of first RAP Call, including delivery of the RAP Package, and a statement that the relocation program was explained and assistance was offered.
- Amounts of relocation payments offered. Copies of benefit letters delivered or mailed are included in the file.
- Claimant's response to offer of assistance (accepted or refused) and relocation intentions, if known.
- Date claim forms were delivered and kinds and amounts of payments involved.
- Date payment amounts are reviewed. If revised, the date claimant was advised of change in entitlement and amounts involved.
- An entry to the effect that replacement housing or rental replacement housing valuation was current as of date displacees moved out. Case file will contain written backup that valuation is current.
- Addresses and prices of replacement properties offered to displacee and methods used to transmit information.
- Dates correspondence or documents were received or transmitted.
- Delivery dates of official notices, such as 90-Day Notice.
- Diary entry when a moving claim is processed indicating circumstances of vacation; e.g., voluntary self-relocation, eviction, subject to 90- or 30-Day Notice, advisory assistance used.
- Relocation Assistance Program Senior sign-off for closed files (10.01.14.08).

Relocation diaries are confidential and should not be provided to the displacee or any other parties. However, during eminent domain actions or a

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relocation assistance appeal, diaries in whole or in part can be requested by the displacee, an attorney, or an interested party. Prior to providing copies of any diaries, the agent should obtain approval from the local Legal Office. (See 10.01.14.09.)

10.01.14.06 Records

All Relocation Parcel Files must be maintained in sufficient detail to demonstrate compliance with 49 CFR 24.9(a). The files must be retained in the region/district office for at least three (3) years after the latter:

- When each displacee receives the final relocation payment to which they are entitled, or
- The final voucher for construction is submitted.

10.01.14.07 Tickler Files

The RAP Senior must maintain a database or tickler system to assure, among other things, that all potential displacees are notified prior to the expiration date of any period in which they must:

- Occupy DS&S housing.
- File a claim.
- File an appeal.

All notices should provide ample time for displacee to act. The tickler file will also provide a reminder to make a mandatory six (6)-month follow-up call.

It is strongly suggested that the Agent send the displacee a letter detailing time periods and criteria to receive their full entitlements at the time they vacate the state-acquired property.

Time constraints for purchasing and occupying replacement dwelling vary for owners and tenants. See Section 10.08.02.00 for a detailed explanation of the various time constraints for purchasing or occupying replacement properties and/or filing a claim.

The District may approve time extensions for residential owners and tenant-occupants for good cause.

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10.01.14.08 RAP File Closeout

The Senior Right of Way Agent in charge of the RAP Unit shall review every closed relocation case file in a timely manner to determine that:

- All benefits were fully paid.
- Certified Escrow Closing Statement was reconciled with amounts the Department placed into escrow.
- Supporting payment documentation was placed in the file or adequate diary entries were made to support nonpayments.
- Payments were made in a timely manner.
- Relocation assistance advisory service was offered and given, if requested.

The RAP Senior completes the file closeout by signing the front page of the diary, certifying to its adequacy. The Senior should note and correct any inadequacies and give appropriate instructions to ensure future compliance. Relocation File Closeout Checklists are available to assist the Relocation Senior (see Exhibit 10-EX-1).

The reviewing RAP Senior must not certify the adequacy of any case file in which they have personal knowledge or relationship with the displacees, or if they were the RAP Agent for any significant period of time. In these instances, another Senior or Supervising Right of Way Agent must review the file.

10.01.14.09 Confidentiality of Records [49 CFR 24.9(b)]

Records maintained by the Department are confidential regarding their use as public information, unless applicable law provides otherwise.

The Public Records Act favors disclosure of public records unless there is a specific exemption against disclosure. Since the Act requires the Department to respond to a request for information within 10 days, even if the request falls within one of the exemptions, it is important not to ignore such a request. See "Public Access to Department Records and Personal Information" for additional information on Public Records Act requests.

Care must be taken to ensure that confidential information such as tax records, Social Security information, and Title VI surveys are not retained in the parcel file.

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10.01.14.10 Reports [49 CFR 24.9(c)]

The Department submits an annual report to FHWA on its real property acquisition and displacement activities.

The HQ R/W Planning and Management Office prepares the Statistical Report Form for the 12-month period of each calendar year. The data is gathered from various tracking systems (e.g., ROWMIS, Advantage, PMCS) and verified with the region/district RAP Senior prior to its submission to FHWA.

To ensure accurate reporting, the RAP Senior must maintain the ROWMIS database that tracks the number of residential and nonresidential displacees, the total of their relocation payments, the date of their move, and any funds paid that are classified as Last Resort Housing (LRH) (above the regulatory limits).

10.01.14.11 Accounting Information

The RAP Senior is responsible for forwarding accurate RAP payment cost information to Accounting through Planning and Management (P&M).

To ensure all RAP payments are properly coded, the RAP Agent completes a separate Form RW 10-5, Relocation Cost Summary, for each claim scheduled for payment; e.g., moving expense claim and subsequent rent supplement payment.

Instructions for completing the form are printed on page 2 of the form. The need to provide the proper Review Indicator(s) on the form is of particular concern since this box is used to highlight certain payments where coding errors can occur.

10.01.15.00 Employee Relocation Assistance Program (ERAP)

A Department employee may receive his or her actual and necessary moving and relocation expenses, in accordance with Department of Personnel Administration (DPA) rules and limitations, whenever such employee is required to change their place of residence because of a change in assignment, promotion, or other reason related to duties with the Department.

Limited benefits may be extended to new hires as a recruitment incentive for individuals accepting employment from out of State.

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Division of Accounting is the primary administrator of the ERAP. Accounting provides employees with relocation rules and specific authorization forms upon notification of employee relocation from the hiring manager (Form ASC-3001). Accounting also provides assistance to employees on interpretation of DPA rules and IRS fringe benefits taxability in regard to moving related expenses such as temporary living expenses and reimbursement costs for the sale of old residences. All claims for payment are submitted to Accounting for payment.

Right of Way is responsible for those relocation services that are real estate related. These include:

1. Counseling services to assist in the sale of the present home and/or purchase of a new home.
2. Providing assistance in locating a home or apartment in the new location.
3. Furnishing an estimate of value for use in selling the present home and/or purchase of a replacement home.
4. Providing available information regarding the new community.
5. Counseling and assisting in the moving of one's personal property.

Each Region/District Right of Way office must appoint an ERAP Coordinator - usually a RAP agent.

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10.02.00.00 - RELOCATION IMPACT DOCUMENTS

10.02.01.00 Relocation Planning

49 CFR 24.205 requires each State Highway Department plan projects in a manner that ensures the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations are recognized and solutions are developed prior to initiating any right of way activities, and the project reports (PR, PSR, PID, ED, etc.) shall address the complexity and nature of the anticipated displacements.

The RAP Branch is responsible for the preparation of the Relocation Impact Document (RID) that addresses these potential impacts.

10.02.02.00 Purpose

The purpose of the RID is to evaluate the project's impact on residences, businesses, farms, and nonprofit organizations. The RID will include data on the following:

1) An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and the handicapped when applicable.
2) An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, consideration of housing of last resort actions should be instituted.
3) An estimate of the number, type, and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected.
4) An estimate of the availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the businesses should be considered and addressed. Planning for displaced businesses which are reasonably expected to involve complex or lengthy moving processes, or small businesses with limited financial resources and/or

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few alternative relocation sites should include an analysis of business moving problems.

5) Consideration of any special relocation advisory services that may be necessary from the displacing agency and other cooperating agencies.

The RID studies the direct impacts of the project and provides the:

- Project Manager with information on relocation issues that will impact the project delivery schedule.
- Environmental Planner with data to analyze the project's impact on socio-economic issues.
- Right of Way Manager with an estimate of the resources needed (schedule, PYs, capital dollars) to deliver the Right of Way Certification.

10.02.03.00 Environmental Document

The Environmental Planner is responsible for analyzing the project's impacts on:

- Land use - development trends, community growth.
- Farmland - types of agricultural land in accordance with the Williamson Act.
- Social issues - changes to the community patterns.
- Economic issues - impacts to a community's tax revenues, employment, or accessibility.
- Relocation issues - types of occupants and projected needs.

(See 10-EX-8.)

It is the latter issue that will generate a request from the Project Manager or the Environmental Planner for the RAP Senior to prepare the RID.

Caltrans Environmental Handbook Volume 4, "Community Impact Assessment," delineates the respective roles and responsibilities of the Division of Environmental Analysis (Environmental), including the specific collection of data. The Environmental Planner is responsible for information on population, tax revenues, growth rates, ethnicity, income levels, etc.

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The requirements for the RID are explained in detail in Table 10.02-A, but as a minimum must always include:

- The number of occupants displaced,
- The typical vacancy rate for each type of displacement (e.g., 5% vacancy rate for multi-residential units),
- Identification of any special needs such as elderly or handicapped displacees, and
- A statement that the Right of Way office has sufficient resources (experienced staff and capital dollars) to complete the relocations in accordance with policies and procedures.

The data provided in the RID will enable the Environmental Planner to address pertinent issues and develop a mitigation plan as needed.

On occasion, Environmental may request additional data from Right of Way to be used in the analysis of the project. This may include:

- Real estate market trends (e.g., increase or decrease in affordable housing).
- Types of residential units available in the displacement area and potential replacement areas.
- Demographics for the displacement and replacement areas [e.g., low income (below poverty), minority, elderly, handicapped].

Right of Way should provide whatever information is available, but the data should not be included in the RID unless it is significant to the availability of replacement housing (e.g., low income per surveys or census data may indicate the need for Section 8 housing or excessively high Rent Differentials). Clarify in the report whether low income is 30% of rent, or below poverty level for the report.

Note: Environmental will study the impacts on low-income housing stock.

10.02.04.00 Relocation Impact Documents

The Relocation Impact Document is prepared in support of the Environmental Document and will be completed at the draft (DRID) and final (FRID) stages of the project.

The RID format is dependent upon the complexity of the project as determined by the number of displacements and the availability of replacement property.

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A Relocation Impact Memorandum (RIM) is prepared if there are fewer than ten displacements and there is ample replacement property. The standard format for the RIM is a memorandum (10-EX-3).

A Relocation Impact Statement (RIS) is prepared if there are ten or more displacements and ample replacement property is available. The standard format is 10-EX-3A, but can be a narrative report if needed.

The Relocation Impact Report (RIR) is prepared if there are complex relocations because of available replacement property, displacee special considerations, or major impacts to minorities, the elderly, large families, and/or persons with disabilities when applicable [49 CFR 24.205(a)(1)]. The standard format is 10-EX-4, but this should be used as a checklist when reviewing the issues with Environmental to determine what information is needed and how the data will be collected. The actual report may be in the form of a checklist or a full narrative report. See Table 10.02-A for minimum requirements for each type of document.

Generally, a draft RID (DRID) that is prepared for the draft Environmental Document (ED) will require a final RID (FRID) when the project alternative has been selected and the final environmental report is prepared. The same applies for a draft and final RIR. However, it is possible that a draft RIR that considers several alternatives that cause many different types of displacements, may only need a final RIS when the project alternative is selected, which impacts only a few occupants.

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Table 10.02-A

Minimum Requirements for all Relocation Impact Documents (Draft/Final) (Statement/Report – Checklist or Narrative)

Section	Attachments
Project Description	• Project Location Map • Project Limits Map • Project Alignment Map • Project Summary Sheet
Displacements: A full discussion of the type of displacements, replacement property, plans to mitigate relocation problems or address special needs.	• FRIR Data Sheet and Recommendation Summary that includes, as appropriate, a "No Re-rent Statement," "Field Office Statement," or "Appraisal/Acquisition or Relocation Priorities" • Number of Displacement Units • Type of Residential Units Displaced (Multi-Res, SFR, Apt, MH, etc.) and estimated value/rental rate • Type of Nonresidential Units Displaced (Commercial, Agricultural, Nonprofit) and estimated size of the operation (e.g., Mom-and-Pop retail store, small business) • Survey of Displacees (Data Analysis) if interviews conducted • Chart arraying the residential units by type and price in the displacement area against the replacement area, including subsidized housing
Project Relocation Resources	• Identification of Special Problems • Proposed Solutions for Noted Problems

10.02.05.00 Minimum Requirements

The minimum requirements for each RID are explained below:

1) Identification of the project [Co., Rte., PM, and description] including a general location map.
2) Identification of the displacement area and the potential replacement area, by alignment.
3) Number and type of occupants that may be displaced by each alignment.
4) Availability of replacement property by type and a statement of its affordability.
5) List of all sources of information, including interviews with potential displacees (usually conducted for final documents only).

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6) Statement of how relocation will occur in a manner that minimizes the hardships on the displacees.
7) Project map showing the alignment.

10.02.05.01 Project Identification

The project location and a description of the project must be included in the RID. Examples:

6-FRE-180-39.58/43.93 (EA 420500) Widening of a conventional highway.

10-ST-219-.2/7.8 (EA 0A8700) Widening of a two lane conventional highway to a four lane conventional highway. Alternative 3B (maintain the existing centerline), Alternative 3C (shift the centerline north). Alternative 4 (no build).

This information is readily available from the Project Manager and should be copied verbatim from the PID.

A map of the general area showing the proposed project alignment must be attached.

10.02.05.02 Displacement and Replacement Areas

The impact of the project cannot be determined until the displacement area has been defined. This should be a joint effort by Right of Way, Environmental, and the Project Manager.

Right of Way determines the potential replacement area (i.e., local housing market). Adjacent project neighborhoods should be considered first; larger areas may be used if an explanation is included. The most important criterion for defining the replacement area is homogeneity of type (single family and/or multifamily) and price range of the housing. Other important information to consider are the characteristics of the resident population of an area including tenure, location, income level, age of structure, employment type, and availability of transportation.

A typical method of identifying the replacement area is by city, a grouping of census tracts, part of a city (neighborhood), or other recognizable area.

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10.02.05.03 Number and Type of Occupants Impacted

The total number of households, businesses, farms, and nonprofits must be included in the document. Residential households must be classified as single-family, multi-residential, or mobile home; and by the number of owner or tenant occupied. Businesses must be classified by type (e.g., commercial, retail, industrial).

Draft reports do not need an exact count of the number of persons being displaced. Census information for the displacement area can provide the average number of persons per household (e.g., 2.6).

Existing and potential rental rates, fair market values should be discussed in its relationship to the replacement area (e.g., the average rental rate for the apartment complex impacted is within an acceptable range of the rental rates available in the replacement area). The data can also be presented in a table or spreadsheet.

Refer to Volume 4, 4-7.3 through 4-7.5, regarding Environmental's issues and responsibilities as to affordable housing, demographic characteristics, and senior citizens/disabled persons.

If at any time during the preparation of the draft, Right of Way and Environmental determine that a significant number of the displacees have special needs as to finding suitable replacement property, personal interviews must be conducted when completing a survey developed from 10-EX-5. Surveys cannot be mailed. These special needs of the displacees must be discussed in the document. If the displacement area negatively impacts a significant number of handicapped, elderly, or low-income (below poverty) residents, or residents in low-income housing, then the RIS cannot be used. A full narrative discussion on how these special needs will be addressed in the relocation activities must be included in the RIR. Interviews must be conducted with all potential displacees who have special needs to ensure that issues are fully identified and a plan for assistance is prepared.

If the proposed project is considering more than one alternative, the document must identify the number and type of occupants by each alternative. A table or checklist can be used to simplify the data.

Charts listing the properties by Assessor's Parcel Number (APN), address, owner's name, or impacts should be retained in the working file and not included in the RID.

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10.02.05.04 Availability of Replacement Property

Information on available replacement property by type (residential, commercial, and agricultural) must be included in the report. If a statement is being prepared because there are few displacements, then the document can state "there are ample single family residential replacement properties on the market similar to the displacement properties, or similar wording for commercial properties."

If there are limited replacement properties available by type or cost, then an RIR must be done which will include a plan on how the relocation activities will address this issue. Relocation payments over the last resort housing limits may mitigate affordability issues. Scheduling the relocations over a longer period of time can mitigate low vacancy rates.

10.02.05.05 Contact with Data Sources, Property Owners, and Displacees

Good public relations are critical to a project's success. The Project Manager and/or Environmental Planner will keep the local agencies and the community aware of the project. Public meetings and public hearings are conducted throughout the process. Right of Way staff may be asked to participate to explain the Relocation Assistance Program.

Contacts with local agencies, community, and other impacted groups for information to be included in the RID should first be coordinated with the Project Manager and/or Environmental Planner.

There are two types of data sources, primary and secondary, to consider when analyzing displacement impacts. A "primary" data source is information obtained directly from the potential displacee whether it is through surveys or public meetings and hearings. A "secondary" data source is information obtained from civic or community organizations, governmental agencies (e.g., housing authority, health department), schools, churches, nursing care programs, as well as census tract data, real estate statistics, periodicals, GIS (Geographic Information Systems), and the Internet's World Wide Web. "Secondary" data sources are the preferred method for analyzing displacement impacts during the relocation impact document phase.

Contact with owners or tenants should be minimal because of the relocation impact document's general nature. Census data and other sources of gross data, including windshield surveys, can be used. Only in distinct problem

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areas when it is necessary to obtain essential data not available from any other source should the Region/District contact owners or tenants. When problems are identified in the RIR, the Region/District should consider the possibility of establishing a field office (10.02.13.00) as one of the methods for providing advisory assistance during the right of way phase.

If relocation problems are identified early in the process, personal surveys and interviews with the potential displacees may be conducted for the draft Relocation Impact Report, and must be conducted for the final Relocation Impact Report (10.02.05.07.). Surveys cannot be mailed during the draft process. Additionally, Relocation Assistance brochures and "Your Property, Your Transportation Project" cannot be provided during the environmental phase.

Census data may be used for gross information (e.g., average persons per household). Other information (average vacancy rate in the displacement area) can be obtained from newspaper advertisements, telephone and postal surveys, multiple listing services, and real estate and rental offices. Information published by governmental offices (e.g., HUD, HCD, FHA, and Section 8) may be used to supplement other replacement housing data.

One of the more likely sources of data is through a field review of the displacement and replacement neighborhoods.

At a minimum, the document will list all external sources, including personal interviews, used to obtain the data (rental rates, vacancy rates, average number of persons per household) that is included in the document.

10.02.05.06 Relocation in Compliance with Uniform Act

Each document will state the manner in which relocation will occur that minimizes the hardships the displacees may incur. This includes the level of advisory assistance, the possibility of a temporary field office during relocations, requesting assistance from HUD in finding affordable housing, and more lead time to complete the relocations.

At a minimum, each document will include the following statement:

> "All activities will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Relocation resources shall be available to all displacees without discrimination."

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The Federal Highway Administration (FHWA) Uniform Relocation Act Benefits description is included in every ED as Appendix A. It does not need to be included in the RID. However, the RAP Senior is responsible for providing Environmental with the most current Exhibit. Headquarters Right of Way will ensure the Exhibit in this Chapter is current and provide copies to HQ Environmental.

10.02.05.07 Survey Methods

The survey format should be reviewed with the Environmental Planner to ensure additional questions are added that will provide the Environmental Planner with data needed to analyze the impact of the project. The survey for the RIR should not include questions about the potential displacees' desire or lack of desire to relocate, nor anything about their preferences for location, type of property, or preferred amenities.

The format of the questionnaire should be carefully considered. The sequencing and phrasing of questions can be critical not only to the type of response, but to the quality of response as well. This is particularly true of cross-cultural surveys and mail outs.

If possible, liaison with owners by personal or telephone contact (not by letter) through reverse listing sources should be made prior to tenant contact to explain the survey's purpose and obtain owner permission for tenant interviews. Absentee owners are never asked to complete the survey. Owners' refusal to allow contact with their tenants must be documented in the study.

If surveys are mailed to potential residential displacees during the final phase for the Relocation Impact Report, a cover letter (10-EX-6 NEW) must be attached explaining the purpose of the questionnaire. Follow-up on nonrespondents may be by phone or personal contact, within a reasonable time (between 7 and 14 days).

If personal contact is made, personnel making the contact must be fully briefed to answer questions and explain the survey's purpose. Regardless of the technique used, the purpose of the survey must be clearly stated to ensure maximum understanding by the public.

Bilingual specialists may be necessary to assist with translations of questionnaires and conducting the interviews.

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Information obtained from the potential displacees is confidential. Displacees should be so assured that any personal information will be controlled in accordance with the California Information Practices Act and used only as an unidentifiable portion of summarized data.

The following actions are recommended if interviews are conducted:

- Document attempts to contact displacees. Normally, four attempts at various times of the day/evening and week are sufficient.
- Deliver a copy of appropriate RAP brochure. Note: Non-English translations can be ordered through HQ Right of Way. A minimum of 90 days is needed to obtain the translations.
- Discuss general questions about the project and relocation. Avoid questions about appraisal and acquisition; refer them to the appropriate function.
- Fill out displacee questionnaire.

The following points must be explained in each field interview:

- To qualify for relocation payments, the person must occupy their dwelling at the initiation of negotiations for the parcel.
- Only occupants who are considered U.S. residents are eligible for relocation benefits.
- The purpose of contact is to determine replacement-housing needs based on current project requirements.
- Potential displacees should not take any actions concerning their potential displacement that would create personal or financial loss or hardship if the property they now occupy is not acquired.

10.02.06.00 Complex Projects

The full narrative report (RIR) must be completed for projects that impact more than ten occupied units (residential or nonresidential) and should cover the relocations that could be complicated (e.g., an alcohol rehabilitation center, an assisted living complex).

All RIRs should be arranged as shown in Table 10.02-A. A summary of effects and alternative mitigation actions must be included in the FRID. Each issue must be fully addressed in the report.

The checklist (10-EX-4) can be used as a basis for the full narrative report.

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10.02.07.00 Accountability

Relocation impact documents will be completed at the Region/District level, under the supervision of the RAP Senior, or contracted out to qualified consultants. All documents must conform to this chapter.

The Region/District-prepared RIDs are written and completed by a Right of Way Agent who:

- Is at least Associate level.
- Is fully trained.
- Has background or experience in relocation assistance and market studies.
- Has good writing skills.

The Region/District RAP Branch is responsible for:

- Preparing Draft Statements/Reports and Final Statements/Reports.
- Preparing updates as required.

Any legal opinion shall be requested early. Although the legal opinion is not part of the RID, it is kept as backup documentation.

One of the criteria for establishing a R/W Capital Phase is approval of the FRID. The Region/District may request an exception if the FRID is incomplete when the Capital Phase is submitted for approval.

The circumstances causing the lack of the completed report and the reasons for establishing the Phase should be discussed.

10.02.08.00 Annual Reviews and Updates

The RAP Senior will annually review all FRIDs for current STIP projects. As projects enter the STIP, the completed FRIS or FRIR are subject to changes in alignment, R/W limits, real estate market, and Federal, State, or local policy.

Environmental or Project Development may request annual review of draft documents, even though it is not required. The RAP Senior should maintain a tickler system to track the time frame when the draft is due for a final report.

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10.02.09.00 Record Retention

The Region/District must maintain the RID and all supporting documentation until the project has been constructed.

These records must be retained for an additional seven years after completion of construction on the project if legal action or injunctions were part of the project process.

10.02.10.00 Right of Way Planning Document

Final Relocation Impact Documents provide Right of Way with the scope of relocation requirements in a single project or a number of alternative projects. The information in the RID should be used to prepare Right of Way's Planning Document.

The Right of Way Planning Document (10-EX-4A) facilitates the orderly relocation of everyone in the right of way and gives advance warning of special problems that may necessitate more lead time than normal. The Document will address, in detail, special relocation problems, timing considerations, relocation phasing, and general relocation alternatives.

Table 10.02-B will ensure that the Region/District Right of Way management (e.g., RAP Senior, Estimator, Planning and Management) can plan the appropriate resources to complete the relocations. The document provides Right of Way with information on the number of displacements, type, availability or lack of affordable housing, the likelihood of last resort housing payments, and identification of special needs that will have to be addressed before the initiation of negotiations begin.

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Table 10.02-B
Right of Way Planning Document – Internal Document (10-EX-4A)

Basic Assumptions	State basic assumptions that could invalidate all or part of the study if changed, including: • Certification dates for the project. • The reservation that the design will remain essentially unchanged. • That critical recommendations in the Relocation Plan are implemented. • All approvals are obtained as scheduled.
Number of Housing Units Needed vs. Number Available *	Complete a table or spreadsheet that: • Compares by price range, number of bedrooms, and occupancy status. • Summarizes the total available dwellings by price range, number of bedrooms, and occupancy status. • Outlines (one for each year of right of way acquisition for the project) the basis for relating the various kinds of housing needs and the housing available to fulfill them.
Mobile Home Relocations	If it is necessary to relocate people in mobile homes, provide a complete separate analysis, the results of which are correlated into the project Relocation Plan.
No Special Effort Required	Describe those classes of housing where no special effort will be necessary, including the areas where RAP payments will easily accomplish relocation. Provide an analysis showing that displacees will be able to pay for their housing in the new area.
DS&S Problems	Discuss problems where the normal market may not have enough DS&S housing to absorb the demand within the time span allowed for relocation.
Time Schedule	If the time scheduled for acquisition and relocation is insufficient to allow orderly relocation based on what the market can absorb, state the best estimate of the time required and recommend changes that would allow for this additional time.
Scarcity in Some Housing Classes	If there is scarcity in some classes of housing and the District has other similar projects, follow-up studies on actual RAP displacees may enable the report to generalize on the percentages of people by housing class who tend to leave the area completely. A reasonable estimate of people expected to leave the area, based on solid facts, may show that no availability problem exists where there appeared to be one.

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Table 10.02-B

Right of Way Planning Document – Internal Document (10-EX-4A) (Continued)

Large Number of Ineligibles	If the survey indicates a housing area where there are or may be a large number of ineligible occupants in the right of way, discuss this along with any foreseeable problems connected with them. Examples are student housing and motel/hotel occupants.
Sequencing	State which parcels should be appraised and acquired first and what special recommendations for handling them are most appropriate.
Special Problems - Extra Time Required	Identify those parcels where extra time will solve special problems. If there is low availability of one type of unit, such as very large houses, more time may well solve the relocation problem. Other such problems may include rest homes, old hotels with permanent residents, housing for elderly, and mobile home parks.
Business Relocation Problems	If research indicates a lack of available business relocation sites or significant relocation problems, bring these issues to the attention of the District Appraisal and Acquisition Branch in writing. Include a discussion of possible solutions to the identified problems.
Special Project Reports or Community Data	The District may be asked to provide special project reports or community data (affordable housing cost calculations) to various District functions. Complete these activities only after there is full understanding between R/W and the requesting party as to the scope of the particular project and its priority relationship with ongoing R/W activities.

* Include in RIS and RIM

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10.02.11.00 Lead Time

The Right of Way Planning Document must estimate the lead time required to adequately carry out a timely, orderly, and humane relocation program. Factors to consider are:

- Concurrent projects that create displacements.
- Availability and experience level of RAP staff.
- Total number of displacees.
- Relocation problems indicated in study.
- District work norms.
- Available budgeted money.
- Replacement housing availability.
- Vacant land availability.
- Re-rent policy.
- Project certification date.

Note: A short statement about the estimated lead time should also be included in the FRID, especially if additional time is required to conduct the relocation activities.

10.02.12.00 Re-Rent Policy

A no re-rent policy should be recommended in the R/W Planning Document when it appears there may be:

- Shortage of replacement housing.
- Project construction immediately following relocation.
- Shortage of nonresidential replacement sites.

The recommendation shall justify the policy, fully discussing advantages and disadvantages, the social and economic impact of eliminating a percentage of the housing market, and the effect of boarded up units on neighborhood security.

A no re-rent policy must be established on projects where such provisions were included in the freeway agreement or requested by a local agency.

Note: A short statement about the estimated lead time should also be included in the FRIR, especially if there is an anticipated shortage of affordable replacement properties.

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10.02.13.00 Field Offices

The Region/District's decision to establish a field relocation office should be based on:

- Number and type of displacees.
- Distance of the project from the District office.
- Mobility of displacees.

The decision should be made on an individual project basis and included in the R/W Planning Document. Establishing a field office is advisable on large projects.

The office must be convenient to public transportation or within walking distance of the project.

Field offices must be staffed with knowledgeable R/W Agents. A bilingual or ethnic aide may also need to be available in any area with a high percentage of non-English speaking displacees. The field office shall be open during hours convenient to displacees, including evenings and weekends, if necessary.

10.02.14.00 Advanced Acquisition

Acquisitions approved in advance of the Environmental Document require an analysis of the proposed project's impact on the occupants. A RID must be included in the request for advance acquisitions to begin.

Advance acquisitions require a brief analysis of:

- Availability of relocation resources.
- Existence of special problems; e.g., disabled, elderly, and overcrowding.
- Recommended solutions to discovered or presumed difficulties.
- Adequacy of the RAP program to relocate displaced households effectively.

(Refer to Sections in the Corridor Preservation, Acquisition, and RAP Chapters regarding Hardship Acquisitions.)

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10.03.00.00 - RELOCATION NOTICES and OCCUPANCY CERTIFICATIONS

10.03.01.00 Notices

The Uniform Act and 49 CFR 24 prescribe general requirements governing the provision of relocation payments and other relocation assistance. The requirements mandate that potential displacees receive appropriate and timely notices that explain the relocation program and their entitlements.

As such, the Region/District must provide all potential displacees with the appropriate notice described in this section, in writing and within the time frame prescribed.

If the person is unable to read and understand the notice, the RAP Agent must provide the person with appropriate translation and counseling.

Each notice will include the name and telephone number of the RAP Agent to be contacted for answers to questions or other needed help.

All notices should be personally served. If personal service is impossible (occupants are in the armed forces, impacted property is for storage only), the notice may be sent by certified or registered first-class mail (return receipt requested and received), with another copy of the notice sent simultaneously by regular first-class mail. The date of service shall be 5 days for California residents, 10 days for U.S. residents, and 20 days for all others.

10.03.02.00 General Information Notice [49 CFR 24.203(a)]

The first notice provided to the potential displacees is the General Information Notice (GIN) (RW 10-7). The mandatory format should not be changed except to add the potential displacee's name and the project identification [Dist-Co-Rte-PM-Parcel] and the date the Notice is sent.

The GIN is mailed to the potential displacee as early as practical after the completion of the Parcel Occupancy Data form (RW 7-2) obtained by the Appraiser. If the GIN is not mailed within three (3) working days of the date the RAP Branch receives the RW 7-2, then a diary entry shall explain the reason why it was not practical to send sooner.

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The GIN should be mailed with a copy of the appropriate Relocation Brochure and the assigned RAP Agent's contact information.

Since Title VI information is provided to the owners by either the Appraiser or the Acquisition Agent, the RAP Branch need only send the Title VI information (see 2.04.01.02) to tenants or lessees.

The purpose of the GIN is to briefly describe the relocation program and to inform the potential displacees that they will be:

1) displaced by a public project,
2) given relocation advisory services, including referrals of replacement properties, help in filing payment claims, and other necessary assistance to help the person successfully relocate,
3) given 90 days' advance written notice before they are required to move,
4) given the address of at least one comparable replacement residential property before they are required to move,
5) and they have the right to appeal if they question the Department's determination of eligibility or benefits.

The RAP Agent must send the GIN to all owner and tenant/lessee occupied properties. The owner cannot prevent the District from notifying tenants of the benefits they may be eligible to receive under the Uniform Act. The RAP Agent should advise the owner that it is necessary that the tenants receive a full explanation of the relocation program which includes advising them that there is no immediate urgency for them to relocate. If the owner is concerned the tenants will move and there will be a loss of rental income, the Region/District may offer to make a payment to replace lost rent for vacancies occurring due to relocation for a reasonable period of time.

10.03.03.00 Legal Residency Requirement to Obtain Benefits

All relocation notices must inform the persons that anyone 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.

Notice to potential displaced persons of legal U.S. residency requirements to obtain benefits will be made at the earliest possible time, but no later than the provision of the GIN (RW 10-7). Information on residency requirements will be included in the RAP package made available to owners and tenants.

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Requirements for Certification Concerning Legal Residency in the United States will be included in the General Information Notice, the Relocation Brochure, and all Notices of Eligibility and Conditional Entitlement Letters.

10.03.04.00 Notice of Intent to Acquire (NIA)

Normally, the first notice the owner of the property receives is a Notice of Intent to Appraise or a Notice of Intent to Inspect ($10,000 and under approach) from the Appraisal Branch. However, the owner could have contacted the Region/District earlier because of a need to relocate prior to the Appraiser's inspection. If the Region/District determines that there is a need to protect the owner's relocation benefits, then the Acquisition Branch (see 5.03.00.00) will send an NIA (RW 10-8) to the owner-occupants to:

- Protect the eligibility of prospective displacees who need to move prior to the first written offer on the parcel.
- Prevent dual eligibility.
- Assure that all persons are fully aware of relocation assistance benefits and requirements.

The Region/District DDC should use the following to determine if an NIA is appropriate:

- Tenants/lessees (residential/nonresidential) only qualify provided the owner agrees to rent the property to the Department (10.03.04.01).
- The owner-occupant must meet the same criteria for a hardship outlined in Section 5.03.04.01.
- The owner-occupant must agree to rent the property back to the Department for economic rent.
- The appraisal must be complete and a first written offer made within 60 days. In some instances, the appraiser may have already issued the Notice of Decision to Appraise and/or inspected the property, but the determination of fair market value (and the subsequent FWO) will be delayed beyond a reasonable period of time, and the owner-occupant must relocate immediately.
- If the owner-occupant does not accept the offer within the prescribed time (60-90 days), condemnation proceedings must be initiated, or the acquisition offer withdrawn (see 5.03.04.06).
- The NIA limitations have been met (see table below).

The Agent issuing the NIA to the owner must provide the RAP package. The Conditional Entitlement Letter with the specific amount of the RHP cannot be

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provided to a residential owner-occupant until the appraisal is complete and the first written offer made by the Acquisition Agent. It is strongly suggested that the RAP Agent accompany the Acquisition Agent on the FWO as eligibility for relocation benefits and initial information was already provided.

NIA LIMITATIONS

Project Type	Issuance
Regularly funded	Do not issue the NIA until the initiation of negotiations for the project has been authorized.
Federally funded	In addition to the above, do not issue the NIA prior to FHWA authorizing acquisition on the project.
Not regularly funded	Appropriate formal approval of a Hardship Acquisition is required, along with the owner-occupant's statement that they must relocate prior to the FWO.

In some cases, the owner-occupant may not be available for a personal call to deliver the NIA, ION/FWO, or RAP Package because they have relocated out of the area. In that case, all documents must be mailed certified to the owner.

The NIA shall be dated the day that it is served. It shall contain the anticipated date of the offer and specify how additional information pertaining to relocation benefits can be obtained.

Be aware that if a Notice of Intent to Acquire (RW 10-8) is furnished to an owner, all tenants become immediately eligible for relocation assistance benefits. Tenants must be furnished a notice (RW 10-10) as soon as possible in this event.

10.03.04.01 Notice of Intent to Acquire - Tenants

A Notice of Intent to Acquire - Tenant (RW 10-10) may also be furnished to a tenant or lessee provided the owner has agreed to rent the property to the Department. An Informational Letter to Nonoccupant Owner Re: Notice of Intent to Acquire (RW 10-9) shall be furnished to the owner along with a copy of the Rental Agreement (8-EX-4). In this instance, it is important that the owner of the displacement unit is not served a Notice of Intent to Acquire at this time. To do so will make all occupants of the displacement unit eligible for relocation assistance payments, which may not be the intent of the Region/District.

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Providing RW 10-10 enables business tenants to be eligible for reimbursement of search costs, move coordinator fees and other move-related items that may be necessary early on to relocate their business in a timely fashion. In certain circumstances, renting vacant residential or nonresidential units may expedite project delivery and minimize relocation assistance costs. See 8.01.31.00, State Rental of Residential or Commercial Units Prior to Acquisition.

10.03.05.00 Certificates of Occupancy

To be eligible for relocation benefits, status of the occupants must be obtained via a certification of occupancy.

The Appraiser provides the Parcel Occupancy Data Sheet to the RAP Senior stating the type of occupants on the property (residential or business, owner or tenant/lessee) and the approximate time period they have occupied the property.

The Acquisition Agent obtains a signed Certificate of Occupancy and Receipt of Relocation Benefits at the time of the FWO (and first RAP Call) for all owner occupied properties. This will determine the number of occupants that are eligible for DS&S housing and their tenure.

The Acquisition Agent obtains a signed Owner's Certificate of Tenants from the owner at the time of the FWO. The RAP Agent will make the first RAP Call on the tenants and verify the information on the Certificate.

All occupants must certify their residency status at the time of the first RAP Call.

10.03.06.00 U.S. Residency Certification

Certification should be done by completing RW 10-44 at the time the owner or tenant signs the Certificate of Occupancy or receives the Notice of Eligibility, whichever is earlier.

For residential occupants, the head of household will certify himself/herself and may also certify other family members.

A sole proprietor will certify himself/herself.

For partnerships and corporations, the certification may be signed by a person authorized to sign on the entity's behalf.

The Department must receive certification before any claim can be paid.

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10.03.06.01 Securing the U.S. Residency Certification Prior to Issuing a Notice of Eligibility

It is necessary that each person in the household or the nonresidential unit certify as to their residency status in the United States prior to receiving a Notice of Eligibility, which states "you are entitled to certain benefits under the Department's Relocation Assistance Program (RAP)." This will ensure that persons ineligible for relocation benefits are not led to believe they will receive advisory assistance, moving expenses, and for residential persons, a possible replacement housing payment. (See 10.01.03.08.)

All owners (90-day, Nonresidential) must receive the appropriate Notice of Eligibility immediately after the First Written Offer (FWO) is made. Depending on the Region/District functional assignments, this notice may be delivered by the Acquisition Agent, the Acquisition/Relocation Agent (Caseworker), or the Relocation Agent who accompanied the Acquisition Agent at the time the FWO was made. All tenants must receive the appropriate Notice of Eligibility within 14 days of the FWO from the Relocation Agent.

Before providing the Notice of Eligibility, the agent will first request that the person(s) complete and sign the Certification Concerning Legal Residency in the United States (RW 10-44). If the person(s) do not want to complete the Certification at the first RAP Call, then the agent must state that an explanation of relocation benefits cannot be provided at that time. The agent should further explain that until the Certification is complete and verified as to its accuracy, the person(s) are not considered eligible for relocation benefits.

The agent may leave the form with the person(s) and follow up with personal and telephone calls as to the status. After 30 days have passed, and a Certification has not been received, the RAP Senior must advise the person(s) that if the completed Certification is not returned within 15 days, they (including all other persons in the household or nonresidential unit) will be considered permanently ineligible for relocation benefits. Again, if no form is received as a result of the letter and follow-up calls, the person(s) are to be treated as nondisplacees even if a Certification is provided later on in the process. A letter denying benefits to the persons not certified as U.S. residents must be sent by Certified Mail to each occupant.

These persons will have the right to appeal the decision of ineligibility, but only on the basis that they did not understand that completion of the Certification was mandatory in order to receive relocation benefits; and had they

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understood that aspect, they would have completed the form. They will not be able to appeal the issue of their U.S. Residency status. It is critical the agent maintain explicit diary entries regarding their explanation of the need for a Certification and all attempts to obtain it from the displacee.

10.03.07.00 Notices of Eligibility [49 CFR 24.203(b)]

Eligibility for relocation assistance shall begin on the date of initiation of negotiations (generally the FWO, but possibly the date of the NIA) for the occupied property. When this occurs, the Region/District must promptly provide the occupants with a notice, in writing, of their eligibility for applicable relocation assistance via a Notice of Eligibility.

This makes the Notice of Eligibility the most important RAP document that is provided to the displacee because it informs them that they have been determined to be eligible for relocation benefits. There is a different Notice of Eligibility for each type of occupancy, so care must be exercised to ensure that the appropriate Notice of Eligibility is provided in a timely manner.

The Notice of Eligibility for owners (residential and nonresidential) MUST be provided to the owner on the day of the FWO and to tenants or lessees (residential and nonresidential) within 14 days of the initiation of negotiations.

Notices of Eligibility are delivered with the RAP Package:

a) to the owners by the Acquisition or RAP Agent during the FWO.
b) to tenants by the RAP Agent within 14 days of the FWO (exception: 10-EX-46 and 10-EX-50).

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10.03.08.00 Conditional Entitlement Letter

The Conditional Entitlement Letter is prepared for persons being displaced from their residential homes after the Replacement Housing Valuation (RHV) has been completed. This document provides the occupant: 1) with at least one available comparable replacement dwelling, 2) with the amount of the maximum entitlement they are eligible to receive for replacement housing and moving expenses, 3) with the requirements that need to be met to receive part or all of the entitlement, and 4) with a reminder of the right to appeal. The displacee should be presented with the entitlement letter as soon as reasonable after the completion of the RHV.

If an updated RHV indicates a change in entitlement amount, the RAP Agent must provide a revised entitlement letter to displacee.

The timing and format for each type of Notice of Eligibility and Conditional Entitlement Letter is described in Table 10.03-A. Refer back to Table 10.01-A if there is a question about type of occupancy. See 10.04.00.00 (residential) and 10.05.00.00 (nonresidential) for specific details about the type of relocation benefits.

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Table 10.03-A
DELIVERY OF NOTICES OF ELIGIBILITY and CONDITIONAL ENTITLEMENT LETTERS

Notice	Timing	Exhibit
90-Day Homeowner Occupants	Notice of Eligibility: As part of the RAP Package, at the time of the FWO by the Acquisition or RAP Agent.	10-EX-49
	Conditional Entitlement Letter with specific amounts for the Fixed Move Schedule and the PD, within 30 days of FWO.	10-EX-45
90-Day Occupants and Non-Tenured Occupants	Notice of Eligibility: As part of the RAP Package, at FWO of a 90-day owner. For a 90-day tenant, or a non-tenured tenant (less than 90 days), within 14 days of FWO by the RAP Agent.	10-EX-39
	Conditional Entitlement Letter: When displacees indicate they are actively looking for a replacement dwelling, or when the Department has control of the property (e.g., COE, Effective OP, Executed R/E or APU, FOC) - whichever occurs first.	10-EX-40
Subsequent Occupants	Notice of Eligibility: For occupants who move in after the FWO, within 14 days of notification that they are in occupancy.	10-EX-41
	Conditional Entitlement Letter: When displacees indicate they are actively looking for a replacement dwelling, but not before the Department has control of the property (e.g., COE, Effective OP, Executed R/E or APU, FOC).	10-EX-42
Business, Farm, or Nonprofit Organization	Notice of Eligibility: Owner-Occupants - at the time of the FWO by Acquisition or RAP Agent. Lessee/Tenant Occupants - within 14 days of FWO.	10-EX-43
Personal Property Only	Notice of Eligibility: Owner - at FWO. Tenant - 14 days.	10-EX-46
Nonoccupant Owner Leasing Space to Others	Notice of Eligibility: Owner - at FWO.	10-EX-50

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10.03.09.00 Reminder Notice

The RAP Agent shall send timely written notification of the possible loss of rights and expiration dates to persons who:

- Are eligible for monetary benefits, and
- Have moved from the acquired property, but
- Have not filed a claim.

Notification shall be sent periodically throughout the qualification period. If no response to the written notification is received, the RAP Agent should make telephone contact within the appropriate time limit and document the contact in the parcel diary.

10.03.10.00 90-Day Notices [49 CFR 24.203(c)]

No eligible displacee shall be required to move unless he or she has received at least 90 days' advance written notice of the earliest date by which he or she may be required to move. The preferred method is to provide a 90-Day Information Notice (RW 10-18, RW 10-19) followed by an appropriate Notice to Vacate (RW 10-22, RW 10-23, RW 10-24) with date certain. Where project needs dictate, a 90-Day Notice to Vacate may be issued indicating a date certain (RW 10-20, RW 10-21).

10.03.10.01 Timing

Timing for service of notices is based on project certification dates. Notices should be delivered with adequate lead time to carry out a timely, orderly, and humane relocation program. Displacees may be given a 90-Day Information Notice as early as the date the Department provides the Conditional Entitlement Letter (residential) or 30 days after the Notice of Eligibility is provided (nonresidential). When at least 60 days have passed, the appropriate Notice to Vacate must be delivered IF the effective date is after the state obtains control of the property.

Notices to Vacate cannot be given if control of the property has not been initiated via a Right of Way Contract, an Agreement for Possession and Use (APU), or initiation of condemnation, and the Region/District is sure that the Department will have control of the property prior to the "date certain" provided in the notice. Right of Entries (R/Es) should not be used when there are relocation issues on a parcel.

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Residential displacees must be informed of the maximum relocation housing payment (RHP) amount prior to receiving a 90-day notice (with the appropriate Conditional Entitlement Letter), along with at least one address of a comparable replacement property that is available and within the range of the RHP.

Absentee owners of personal property are considered to be occupants of real property to be acquired and ARE entitled to 90-day information notices and notices to vacate. Any person who exercises physical control over the land, including the right to store personal property on the land, is a lawful occupant and is entitled to 90-day information notices and notices to vacate.

See Table 10.03-A for timing of the delivery of Notices of Eligibility. See Tables 10.03-B and 10.03-C for time frames related to service of notices for acquisition by right of way contract and by eminent domain (order for possession).

10.03.10.02 Content

The 90-day information notices state that the displacement property will be acquired for a highway project. The Information Notice states a Notice to Vacate will follow; providing at least 30 days' notice before they will be required to move (60 days for some residential situations). For residential occupants, it provides the addresses of comparable replacement properties.

10.03.10.03 90-Day Information Notice

The 90-Day Information Notice is not a notice to vacate. The RAP Agent serves the 90-Day Information Notice in person on eligible and ineligible lawful occupants who:

- Are required to vacate because of the proposed construction or other State use, and
- Have personal property located on the acquired property.

Since replacement housing must be available and offered to eligible displacees before a Notice to Vacate can be issued, Region/District Right of Way must coordinate acquisition, property management, and RAP functions to ensure appropriate notices are issued in a timely manner to vacate the property and for R/W Certification.

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10.03.10.04 Notice to Vacate with R/W Contract

For residential owner-occupants, a 30-Day Notice to Vacate may be issued after 60 days have passed since the 90-Day Information Notice was issued if control of the property is expected within 30 days. If control of the property is by either close of escrow or a right of way contract with a possession date clause in it, then the 30-Day Notice to Vacate shall be served 30 days prior to that date. Owner-occupants do not become state tenants. They are provided a 15-day grace period in the right of way contract. Property Management will move forward with eviction after the grace period has ended. Revisions can be issued if the anticipated date of control is delayed. Extending the 30-Day Notice to Vacate may affect the validity of any notices issued by property management preceding an unlawful detainer action. Close coordination with Property Management is essential.

For residential tenants, the possession date clause in the right of way contract or the close of escrow date governs service of a 60-Day Notice to Vacate. The 60-Day Notice to Vacate is provided instead of a 30-Day Notice to Vacate to provide adequate time as addressed in both federal and state statutes.

For residential Personal Property Only situations, issue the 30-Day Notice to Vacate and state "Not applicable – Personal Property Only move" where the residential replacement comparables would be inserted.

Since no eligible residential displacee shall be served a 90-day information notice unless appropriate housing is available, the address of at least one available comparable property replacement, but preferably three, must be offered to displacee simultaneously with each notice. The property must be available and must not exceed the "probable replacement value or rent" provided to the displacee in the latest Conditional Entitlement Letter.

For nonresidential owner-occupants, a 30-Day Notice to Vacate may be issued after 60 days have passed since the 90-Day Information Notice was issued if control of the property is expected within 30 days. If control of the property is by either close of escrow or a right of way contract with a possession date clause in it, then the 30-Day Notice to Vacate shall be served 30 days prior to that date. Owner-occupants do not become state tenants. Grace periods for business displacees to remain in state-acquired property are a delegated authority. See 10.05.26.00 for more information. Coordinate closely with both the acquisition agent and the property manager.

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Nonresidential tenants usually sign a quitclaim deed giving the Department possession of the property. Once the Department has possession (either by quitclaim deed, possession date clause in Right of Way contract or close of escrow), the RAP Agent shall serve the 30-Day Notice to Vacate. In these instances, Property Management will write a lease with the tenant. Coordinate closely with the acquisition agent and the property manager.

Control of the property is obtained on the date escrow is closed, the Final Order in Condemnation is recorded, the date of possession in the Right of Way Contract (RWC), or Agreement for Possession and Use (APU), or the effective date of the Order for Possession (OP) - usually 30 days after the court has executed the document before the Department can have physical possession. The owner of the property must have the acquisition funds available to purchase replacement property before the effective date of the Notice to Vacate. While an approved Right of Entry (R/E) is considered as giving the Department control of the property, it is not appropriate to use R/Es when there are displacements associated with the property.

Either a RAP Agent or Acquisition Agent must serve the 90-Day Information Notice and the Notice to Vacate in person. If the Agent makes repeated attempts to deliver the notice in person and is unable to meet with the displacee, they must post the notice at the displacement property and mail a copy to the displacee. The diary must show their good faith effort to comply with this section.

If the address of the most comparable residential replacement property is no longer available, the Region/District must ensure some comparable replacement property is available, within the displacee's financial means, but it is NOT necessary to reissue a 90-Day Information Notice. The original 90-day period can continue to run.

10.03.10.05 Notice to Vacate with OP

For residential owner-occupants, the RAP Unit issues a 90-Day Information Notice as early as the date the Conditional Entitlement Letter is provided and before the court issues the OP and then issues a 30-Day Notice to Vacate with a date certain after the court issues the OP. The person making service must calculate the effective date. In this case, displacee must receive a full offer of their entitlements and must be furnished the address of at least one comparable replacement dwelling with the notice to vacate. The effective date of the 30-Day Notice to Vacate cannot be earlier than 30 days from the date the last record owner of the property and last occupant was served the OP.

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For residential tenants, the RAP Unit issues a 90-Day Information Notice as early as the date the Conditional Entitlement Letter is provided and before the court issues the OP. After the court issues the OP, a 60-Day Notice to Vacate with a date certain is served. A courtesy copy of the OP is served with the notice to vacate. The person making service must calculate the effective date. In this case, displacee must receive a full offer of their entitlements and must be furnished the address of at least one comparable replacement dwelling with the notice to vacate. The effective date of the 60-Day Notice to Vacate cannot be earlier than 60 days from the date the last record owner of the property and last occupant was served the OP.

For nonresidential owner-occupants, the RAP Unit issues a 90-Day Information Notice as early as 30 days after the Notice of Eligibility is provided and before the court issues the OP. The RAP Unit then issues a 30-day Notice to Vacate with a date certain after the court issues the OP. The person making service must calculate the effective date, which cannot be earlier than 30 days from the date the last record owner of the property and last occupant was served the OP.

For nonresidential tenants, the RAP Unit issues a 90-Day Information Notice as early as 30 days after the Notice of Eligibility is provided and before the court issues the OP. The RAP Unit then issues a 30-day Notice to Vacate with date certain after the court issues the OP. For nonresidential tenants NOT named in the suit, the RAP Unit provides a courtesy copy of the Summons and Complaint and the Notice to Motion.

10.03.11.00 90-Day Notice to Vacate

Under rare circumstances, such as when condemnation proceedings have begun and the displacee then decides to settle by R/W contract, it may be appropriate to issue a 90-Day Notice to Vacate. This should only occur when a 90-Day Information Notice has not been issued, the date certain has been determined, and at least 90 days are available before the Department obtains control of the property. Use Form RW 10-23 for residential displacees and Form RW 10-24 for nonresidential displacees.

10.03.12.00 Notices to State-inherited Tenants

Eligible displacees who are either delinquent in their rental payments to the Department, or in violation of their rental agreement with the Department, are considered unlawful occupants for property management purposes. They are still entitled to their RAP benefits as stated in their Notice of Eligibility and Conditional Entitlement Letter. Property Management will serve either a

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3-Day Notice to Pay Rent or Quit or a 30-Day or 60-Day Notice of Termination of Tenancy and Notice to Quit. Property Management is responsible for advising the Region/District RAP Agent that Property Management will begin eviction proceedings.

The RAP Agent must ensure service of the 90-Day Information Notice and appropriate Notice to Vacate prior to the Department's control of the property. Property Management and RAP need to coordinate appropriate action in the event a displacee does not vacate the property in a timely fashion. Copies of the RAP notices should be sent to Property Management to be retained in their file.

Once Property Management decides to evict an unlawful eligible tenant, the eviction process should be carried to conclusion.

Eligible tenants who are evicted by the Department because of unlawful occupancy must be advised that they retain eligibility for relocation advisory assistance and payments.

Property Management will proceed with unlawful detainer (UD) action when displaced tenants do not move from the property after control has been obtained from the owner. The RAP Unit must work closely with Legal, Property Management, and Acquisition to ensure this process proceeds smoothly. At a minimum, the RAP Unit will oversee the move of personal property into storage. The RAP Agent is therefore usually present when the UD is served by the Sheriff.

Ineligible displacees (e.g., non-U.S. residents, occupants after Department's control, unlawful occupants as determined by 10.01.03.05) will not receive relocation benefits. Generally, these occupants are State tenants who rent the property after acquisition by the State. There are no requirements to provide ineligible displacees with the RAP 90-Day or 30-Day Notices.

Although the Department is under no obligation to the ineligible displacee, Region/District staff are encouraged to provide advisory services to help them find replacement property. There is no requirement to provide advisory assistance to state tenants.

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10.03.13.00 Urgent Need

In extremely rare circumstances, an eligible displacee may be required to vacate the property on less than 90 days' advance written notice. The Department must determine that delivery of the 90-day notice is impracticable in order for this to occur (i.e., the person's continued occupancy of the property would constitute a substantial danger to health or safety to those occupants or others). The RAP diary should fully document the circumstances that required someone to move prior to issuing 90-day notices.

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Table 10.03-B

TIME FRAMES WHEN R/W CONTRACT WITH POSSESSION DATE CLAUSE

Day 1 →	Day 30 →	Day XX ←	Day of Control	Day of Control + 1
First Written Offer (FWO) First RAP Call Owner = Same Day Tenant = Within 14 days **NOTICE OF ELIGIBILITY**	**RESIDENTIAL** Conditional Entitlement Letter (RHP and Room Count Costs) **NONRESIDENTIAL** Completed Inventories, Estimates and Bids, Advisory Assistance First opportunity to serve 90-Day Information Notice	R/W Contract signed Open escrow	**NOTICE TO VACATE** **OWNERS** Residential & Nonresidential Serve 30-Day Notice to Vacate 30 days prior to date of possession in R/W contract or COE (if earlier) **TENANTS** Residential Serve 60-Day Notice to Vacate 60 days prior to date of possession in R/W contract or COE (if earlier) Nonresidential Serve 30-Day Notice to Vacate with Quitclaim Deed 30 days prior to date of possession in R/W contract or COE (if earlier)	Property Management = Rental Agreement @ Economic Rent for tenants If not, notice to increase rent within 60 days Unlawful Detainer for breach – Coordinate with P. M. **STATE HAS CONTROL** COE/APU Possession date clause in R/W contract RAP has served all its notices Property Management now in charge RAP will continue to find replacement property

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Table 10.03-C

TIME FRAMES WHEN ORDER FOR POSSESSION (OP)

Day 1 →	Day 30 →		← Day of Control	Day of Control + 1
First Written Offer (FWO) First RAP Call Owner = Same Day Tenant = Within 14 days **NOTICE OF ELIGIBILITY**	**RESIDENTIAL** Conditional Entitlement Letter (RHP and Room Count Costs) **NONRESIDENTIAL** Completed Inventories, Estimates and Bids, Advisory Assistance First opportunity to serve 90-Day Information Notice	**Day XX** Commence to Eminent Domain Obtain RON Suit filed	**NOTICE TO VACATE** **OWNERS** Named in suit Residential & Nonresidential Serve 30-Day Notice to Vacate concurrent with completion of service of OP on all occupants **TENANTS** Residential Serve 60-Day Notice to Vacate & Nonresidential Serve 30-Day Notice to Vacate concurrent with completion of service of OP on all occupants	Property Management = Rental Agreement @ Economic Rent for tenants If not, notice to increase rent within 60 days Unlawful Detainer for breach – Coordinate with P. M. **STATE HAS CONTROL** FOC Effective OP and Possession RAP has served all its notices Property Management now in charge RAP will continue to find replacement property

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10.03.14.00 Notice to Withdraw or Modify Relocation Benefits

There are situations when it is appropriate to withdraw or modify the relocation benefits that have been provided in a Notice of Eligibility or a Conditional Entitlement Letter. Any time there is a change in the benefits that will be provided to a displacee, the Agent must immediately provide a Notice to Withdraw or Modify Relocation Benefits. The Notice must be personally delivered if possible, but at the very least sent by certified registered mail. However, if the displacee has relied on the promise of relocation benefits and has committed themselves financially or via a contract, the Department may be obligated to pay those relocation benefits in question. Refer to 10.01.04.00 for discussion of Promissory Estoppel and 10.09.07.00 for discussion on appeals due to Promissory Estoppel.

There is no standard form for a Notice to Withdraw or Modify Relocation Benefits. The Agent should prepare a letter that addresses the particular benefit(s) that is impacted (previous amounts, new amounts, reason for the change, etc.) and the right for the person to appeal the determination. A copy of the Appeal Form (RW 10-6) should be provided upon request.

A person who receives a Notice of Withdrawal or Modification of Benefits that decreases a monetary benefit is entitled to appeal the determination.

10.03.14.01 Withdrawal of Benefits

If the Department determines that a person or persons who has received a Notice of Eligibility is no longer eligible for any of the relocation benefits discussed in the letter, then withdrawal of all relocation benefits must be provided. Note: "All relocation benefits" include Advisory Assistance.

The following situations require an immediate notification to the displacee that their benefits are being withdrawn:

1. A long-term postponement of the project creates a situation wherein only irrevocable commitments are allowed under Departmental policy. (See Section 10.17.00.00.)
2. A design modification reduces the requirement for some or all of the property, and the person is no longer required to relocate.
3. The occupant's status as a tenured resident or a valid business is in question, and the Agent has determined they no longer qualify for relocation benefits.

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- A resident purporting to be in occupancy for 90 days is only a seasonal resident and has a primary residence elsewhere.
- A business claims to operate on the property, but in fact only stores personal property at the site and the business license (and other documentation) shows the primary place of business is at another site.

4. The Department and the occupant are no longer pursuing advanced acquisition, and tenants who have already made efforts to relocate but continue to occupy the property.

A person who receives a Notice of Withdrawal or Modification of Benefits is entitled to appeal the determination. If the person claims Promissory Estoppel, the Statewide Appeals Board must hear the appeal. (See 10.09.07.00.)

There may be other situations that require an immediate withdrawal of benefits. Contact HQ R/W if there are questions about whether a notice should be issued.

10.03.14.02 Modification of Benefits

A modification of benefits includes increases and decreases of a monetary benefit, but the person is still entitled to some of the relocation benefits discussed in the Notice of Eligibility.

1. A change in the real estate market indicates the cost of a comparable replacement property is lower than the previous entitlement.
    - A 90-day owner-occupant's price differential is rarely reduced, and only when the Department can document that the person has made no effort to find replacement property based on the amount in the Conditional Entitlement Letter.
2. The 90-day owner-occupant wants to rent.
3. The residential occupant has requested, and received, approval to occupy non-DS&S housing as to size and number of bedrooms.
4. The residential occupant has vacated the displacement property, but has not found replacement property within the one-year time period. (See 10.08.02.00.)
5. A change in the acquisition offer (revised appraisal, administrative settlement) requires a change in Replacement Housing Valuation adjustment (major exterior attribute) or carve-out value (typical residential lot), which modifies the RHP.
6. A further review of the nonresidential operation's documents indicates a change in the previously discussed in-lieu payment, reestablishment payment, or other moving payment.

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7. A member of a residential household dies prior to relocation, and the need for a larger replacement property, or a property that is barrier free, no longer exists.
    - The Modification of Benefits can only be mailed after a new RHV is prepared, and only if the occupants have not made a commitment to rent or purchase replacement property.

There may be other situations that require an immediate modification of benefits. Contact HQ R/W if there are questions about whether a notice should be issued.

10.03.14.03 Waiver of Relocation Benefits

49 CFR 24.207(f) specifically prohibits agencies from proposing or requesting a displacee waive relocation benefits. Since the Uniform Act imposes requirements on displacing agencies to provide relocation benefits, the displacee cannot relieve an agency from the Uniform Act's requirements by agreeing to waive relocation benefits. 49 CFR 24.207(f), Appendix A, states that a displacee may, after having been fully advised of all relocation benefits to which they are entitled, provide a written statement stating they choose not to accept some or all of such benefits. In the unlikely event that a displacee refuses to accept some or all of the benefits, and refuses to provide a written statement to that effect, the Department will document such refusal in writing.

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10.04.00.00 - RESIDENTIAL DISPLACEMENTS

10.04.01.00 Residential Relocation Benefits

Residential displacees are entitled to advisory assistance (10.01.09.01), moving expenses, and RHPs. Eligibility is based on their status as an owner or a tenant, and based on the length of occupancy in the residence at the time of the Initiation of Negotiations (ION), and their status as a U.S. resident (10.01.11.00). The ION begins with either a Notice of Intent to Acquire (NIA) or a First Written Offer (FWO).

To receive the full amount of the calculated RHP, the displacees must occupy a DS&S (10.06.05.00) property within the prescribed time period (10.08.02.00) and file a claim (10.08.03.00). The Uniform Act is a reimbursement program designed to assist displacees in relocating to a new site. Displacees must spend at least the amount calculated by the Department on a replacement property in order to receive the full amount of the RHP.

Except for Subsequent occupants, the displacees may receive relocation benefits prior to the close of escrow (or any other date the State takes possession) as long as other criteria have been met (e.g., occupied the property on the date negotiations were initiated). (See 10.01.03.04.)

10.04.01.01 U.S. Residency Requirement for Moving Expenses

Residential moving expenses will be paid, provided the person has certified the household's legal status and signed the claim form.

When no member of the household is lawfully present in the United States, no moving expenses will be paid.

If some of the occupants are not lawfully present, their personalty must be relocated at their own expense. The RAP Agent must prorate the moving expenses so that only those who can certify as to their status receive a moving expense allowance or reimbursement.

The MSA should not be used when some members of the household are not eligible for moving expenses.

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EXAMPLE:

Two of the five occupants cannot or will not certify they are legal U.S. residents. The head of the household has certified that he/she and the other two occupants are present in the U.S. legally. The moving expenses must be prorated 3/5ths as follows:

A. Fixed Moving Schedule (FMS): Normally, the eight (8)-room house would receive $2,365; but because only three (3) of the five (5) occupants are U.S. residents, the fixed moving schedule is $1,419, payable when all the personalty has been moved from the property.
B. Actual Move: The moving company with the lowest bid must be advised that the displacees will be responsible for paying the ineligible 2/5ths of the entire cost. If the non-U.S. residents remove 2/5ths of the entire household's personalty prior to the moving companies preparing their bids, then an adjustment is not necessary.

10.04.02.00 Moving and Related Expenses - Residential Entitlement [49 CFR 24.301(b)]

Any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person [defined at 24.2(a)(9)] is entitled to payment of his or her actual moving and related expenses determined to be reasonable and necessary, including expenses for:

a) Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Region/District determines that relocation beyond 50 miles is justified (10.04.02.01).
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 Region/District determines that a longer period is necessary.
e) Insurance for the replacement value of the property in connection with the move and necessary storage (10.05.02.08).
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 that are not listed as ineligible under 49 CFR 24.301(h) as the Region/District determines to be reasonable and necessary.

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10.04.02.01 Transportation

Displacee's cost of one-way transportation to the new location is allowable. Displacee may be paid on a mileage basis not to exceed the current rate established by the State Board of Control or fares charged by commercial transport (e.g., taxis). Special conveyance, such as the cost of an ambulance, may be paid. Actual, reasonable costs for meals and lodging are eligible when the Department finds such costs are necessary.

Moving payments for more than one move are not made, except where found to be in the public's best interest.

Generally, the displacee is responsible for costs beyond 50 miles, based on the most commonly used routes between move points. If it is determined that the move cannot be accomplished within 50 miles, the additional expenses for the longer distance may be allowed, but shall be limited to the nearest available site beyond 50 road miles.

49 CFR 24.205(c)(ii)(E) states that the Department shall offer all persons transportation to inspect housing to which they are referred. It is the responsibility of the RAP Agent to decide how the displacees will be transported to inspect replacement properties. If access, safety or liabilities are a concern, then the RAP Agent will offer reimbursement for other transportation such as a taxicab or rental car. Care should be exercised to ensure the expenses are actual, reasonable and necessary.

RAP Agents must preapprove the use of alternate transportation by the displacee, including a limitation of the number of trips (reasonable), the distance (within 50 miles), the locations to be viewed (addresses of properties that are comparable), and the method of transportation (excluding transportation by real estate brokers). Expenses are paid on a standard claim form as "other" moving expenses.

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10.04.02.02 Types of Moving Payments

Residential displacees have the choice of either a Fixed Moving Schedule (based on a room-count schedule), or the actual cost to move the personalty (based on two methods—MSA or Actual):

1) Moving Service Authorization (MSA): selecting any moving company on Department of General Services' list of Moving Companies for the State entitled "State List of Eligible Household Goods Carriers." Payment is made directly to the moving company after completion of move.

2) Actual: Lowest of two bids from moving companies, and, after the move is complete, the displacee may:
    - pay carrier directly and seek reimbursement, or
    - assign payment to carrier, and the RAP Agent pays carrier directly.

Except for the fixed payment, the displacee is eligible for all other necessary and actual moving expenses listed under 10.04.02.00.

10.04.02.03 Fixed Moving Schedule [49 CFR 24.302]

Any person displaced from a dwelling or a seasonal residence is entitled to receive a fixed payment for moving expenses and dislocation allowance as an alternative to a payment for actual moving and related expenses. FHWA has approved the following schedule for California for displacee moves including dislocation allowance for utility service connections. The fixed moving schedule is available online at FHWA's website. In the event the FHWA Web site contains more recent data, use the FHWA guidelines to determine the Fixed Moving Schedule payment.

The schedule includes a provision of $100 for the expense and dislocation allowance to:

- a person with minimal personal possessions who is in occupancy of a dormitory style room shared by two or more other unrelated persons, or
- a person whose residential move is performed by the Region/District at no cost to the person (an extremely rare situation).

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10.04.02.04 Fixed Moving Schedule (Chart) [Effective August 24, 2015 (Updated Approximately Every Three Years)]

SCHEDULE A

(OCCUPANT OWNS FURNITURE)

Number of Rooms	Payments
1	$725
2	$930
3	$1,165
4	$1,375
5	$1,665
6	$1,925
7	$2,215
8	$2,505
Each additional room	$265

SCHEDULE B

(FURNITURE PROVIDED BY LANDLORD)

Rooms	Payments
One room	$475
Each additional room	$90
Dormitory Style rooms (Includes hotel/motel rooms, caretaker facilities, assisted living rooms, and "rooms for rent.")	$100

"Room" for the Fixed Moving Schedule means space in a unit containing the usual quantity of personal property. Normal division includes living room, dining room, bedroom, kitchen, recreation room, library, study, laundry room, basement, garage, workshop, and patio. Other rooms, garages, or storage areas having personal property equivalent to one or more normal rooms may be counted as additional rooms. Most bathrooms do not count as a room.

Counting rooms requires judgment. A large room may have so much furniture that it can be considered two rooms. An alcove or dining area may be a separate room if it has dining room furniture. The RAP Agent must record all room equivalents and briefly explain any judgments. Generally, 1,000 pounds

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and/or 142 cubic feet of personal property and furniture is equivalent to a "room." Examples: 100 pounds would represent four floor-to-ceiling 3' wide bookshelves filled with books, or a well-stocked, walk-in pantry. Additionally, two small rooms with minimal items of personal property might be counted as one room.

Schedules A and B also apply to eligible moves from mobile homes.

Unusual items such as piles of junk, classic cars, or welding equipment should not be counted as an additional room. The RAP Agent should advise the displacee to utilize the Actual Move option for these items.

10.04.02.05 Fixed Payment Limitations and Variations

No temporary storage, utility hookups, lodging, or transportation expenses shall be paid to displacees receiving a fixed payment for moving expenses.

A multi-use property owner-occupant who elects to use Schedule A for the residential portion is still eligible for a business move from the other portion of the property.

Where the landlord partially furnishes the rental units, tenants may choose Schedule A to the nearest full room and Schedule B for the remaining rooms. The landlord may be paid for relocation of personal property only as a business move (see 10.05.10.00 MCF or 10.05.09.01 Actual Move).

Scheduling payment based on either Schedule A or B requires only a "Claim for Relocation Assistance - Residential" (RW 10-2).

The displacee cannot receive the payment based on the Fixed Moving Schedule until the RAP Agent verifies that all personal property has been removed from the displacement site. Also, the Fixed Moving Schedule payment cannot be advanced, nor can it be retained by the Region/District Property Management section to pay for delinquent rent.

10.04.02.06 Moving Service Authorization (MSA)

The use of MSA (RW 10-29) permits direct payment to the carrier and is the preferred method of paying commercial movers. This method of relocating displacees is primarily for residential household goods, but can be used for small business moves.

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10.04.02.07 Payment for Other Services - MSA

If authorized, charges for storage may be included in the carrier's itemized bills.

The MSA should include an appropriate amount for insurance of the personalty. Review Section 10.04.02.08 for additional guidelines.

Payments for other entitlements (e.g., utility hookups), other services (such as ambulance service to move a nonambulatory person), or temporary lodging may be made to displacee in the same manner as provided for actual cost moves by commercial movers.

10.04.02.08 Requirements for Scheduling Payments - MSA Method

Generally, there are no out-of-pocket expenses for the displacee if the move is within 50 miles. The moving company submits the bill to Department of General Services (DGS); and once approved by the Traffic Manager, the invoice is submitted to the Region/District for payment. A copy of the fully executed MSA form and the carrier's itemized bill showing the DGS Traffic Manager's stamp are needed to support the claim schedule. No other claim form from the displacee is required.

(See Processing MSA - Exhibit 10-EX-27.)

10.04.02.09 Actual Reasonable Cost of Move by For-Hire Carriers

A displaced individual or family may be paid actual reasonable cost of a move accomplished by a qualified carrier. Displacee shall secure at least two firm bids based on a list of the personal items to be moved and submit to the RAP Unit for approval prior to the move. If displacee will not make direct payment, they must inform carriers that the Department will pay for the move. Bids must be on company letterhead signed by a person authorized to bind the firm and must contain the following statement:

> "As this move is the result of displacement from real property acquired for public purposes and cost is to be borne by the State of California, the costs and charges for this move are exempt from regulations by the Public Utilities Commission. The cost of performing the work in connection with this move will not exceed cost quoted herein. All work

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performed under this bid shall be accomplished in a good and workmanlike manner and in accordance with standards normally applied by the industry. The company shall be responsible for the actual replacement cost of all loss or damage incurred in the performance of the work."

Either the displacee or the RAP Agent can request estimates from the moving companies. The RAP Agent must review the estimates to determine appropriateness of charges and then advise the displacee of the lowest bid. The displacee may choose any moving company to perform the move; however, the payment will be limited to lesser of the actual amount or the amount of the lowest bid. The displacee may request the payment be assigned directly to the moving company.

Often, reasonable moving expenses cannot be completely determined until after the move has been completed. Appropriate adjustments to the final bill should be made if the bid or estimate could not reasonably have been expected to include the additional charges.

10.04.02.10 Dislocation Allowance

Displacees who elect an actual move (MSA or Actual Move) are also entitled to reimbursement for the dislocation and hookups of household appliances and other personal property that are moved from the displacement property to the replacement property. Reimbursement is limited to those amounts that are actual, reasonable, and necessary as supported by documentation from the displacee. Typical charges are:

- Cable and telephone installation hookup fees (exclusive of any deposits for equipment or services).
- Retuning a piano or resetting a grandfather clock.
- Connection for an icemaker, a water softener, or a gas/electric dryer (not to include changes to the replacement property to accommodate the appliances).

If the Department moves the personal property from a dormitory style room that is shared by two or more persons, the dislocation allowance is limited to $100.

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10.04.02.11 Paying the Moving Company

The RAP Agent may pay a moving company after all personal property has been removed from the displacement site, by either:

- Written Arrangement - signed by displacee, Department, and mover. Displacee pays the moving company, and presents itemized bills and a proper claim to the Region/District Department after the move is completed. The RAP Agent reviews the bills and deletes any ineligible costs, processing the claim for payment to the displacee. Displacee is responsible for any ineligible costs.

- Assignment of Payment - Displacee assigns the moving payment directly to the moving company, who agrees to accept payment after the invoices have been reviewed and the claim is processed. The Assignment of Payment is executed by displacee and carrier. Before assignment is accepted, the RAP Agent shall examine all documentation supporting the carrier's cost. Ineligible costs shall be deleted; only an assignment in the proper amount shall be accepted. Displacee is responsible for paying the moving company for all ineligible costs.

When scheduling payments directly to the moving companies, a copy of the written arrangement or assignment shall be attached to the Claim (RW 10-2).

10.04.02.12 Storage

A residential displacee MAY be entitled to storage of their personal property if the Region/District RAP Senior determines that it is absolutely necessary in order to vacate the displacee for the project.

Storage of personalty is not an automatic benefit and should only be authorized when it is in the best interest of the public and the project. The determination should be based on the needs of the Region/District, the nature of the displacee's operation, the plans for permanent relocation, the amount of time available for the relocation process, and whether storage would facilitate relocation. It is the RAP Senior's responsibility to establish the terms (e.g., monthly rate, term, comparable unit, storage accessibility). Examples of justifiable storage are:

- Displacee has diligently looked for replacement property, but has not been able to locate something because of the Department's DS&S requirements.

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- Construction of the replacement property has been delayed by some unforeseen circumstance, again not the result of the displacee's actions.
- The project's time schedule supports relocating the displacee's personalty immediately.

The displacee's storage must be preapproved by the RAP Senior based on the maximum period of time the displacee will need before permanent occupancy of the replacement property can take place, up to 12 months. Displacees are not automatically entitled to a full 12 months of storage.

Region/District may authorize a flat storage rate for the displacee's storage based on a market analysis of storage rates for comparable units. The displacee can be reimbursed at the end of the agreed upon time period after submitting a claim, including invoices and paid receipts. An optional method of payment is for the displacee to execute an Assignment of Funds wherein the Region/District may advance the first and last month's storage rent to the Storage Facility, and make periodic payments (e.g., quarterly) for the agreed upon time period.

All arrangements for storage should be documented in writing between the Region/District and the displacee, and if applicable, the storage facility.

Displacees are also entitled to the actual, reasonable, and necessary costs to move their personalty into and out of storage, up to 50 miles for each move (including necessary unloading and stacking). The Region/District is only responsible to move the same amount (or less) of personal property out of storage to the replacement site. The displacee must be advised that they cannot move other personal property items into the storage unit during the period of storage.

Extensions beyond 12 months should be rare and only when the displacee's circumstances are so unusual that an additional month or two of storage is warranted.

Note: Displacees are entitled to insurance for the replacement value of the personal property in connection with the authorized storage.

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10.04.03.00 Replacement Housing Payments (RHPs)

49 CFR 24.2(a)(6)(viii) requires the replacement property to be within the financial means of the displaced person as determined by the following:

i. A replacement dwelling purchased by an eligible 90-day owner-occupant is considered to be within the displacee's "financial means" if the homeowner will receive the maximum calculated Price Differential (PD) (10.04.09.00), the full Mortgage Differential (MD) (10.04.12.00), and the reimbursement for all eligible Incidental Expenses (IE) (10.04.13.00).

ii. A replacement dwelling occupied by an eligible 90-day occupant is considered to be within the displacee's financial means if, after receiving the maximum calculated Rent Differential (RD) (10.04.15.01), the displacee'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.

iii. Non-tenured (less than 90-day) occupants are eligible to receive an RHP based on last resort housing provisions. Comparable replacement rental housing is considered to be within the person's financial means if the Region/District pays that portion of the monthly housing costs of a replacement dwelling which exceeds 30 percent of the displacee's average monthly gross household income, provided the average gross monthly income falls within the parameters of the Housing and Urban Development (HUD) low income chart. If the displacees do not fall under HUD income guidelines, the RD will be calculated on a rent-to-rent basis.

iv. Subsequent (post offer) occupants who occupy the property after the initiation of negotiations but before the Department has control of the property are eligible to receive an RHP based on last resort housing provisions. Subsequent occupants must occupy the displacement dwelling at the time the Department receives control of the property in order to be eligible for relocation benefits. The calculations follow those for Non-tenured occupants.

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10.04.03.01 Maximum RHP

To receive the maximum RHP (PD or RD), the displacee must purchase or rent, and occupy a DS&S residential property within the time frame prescribed in 10.08.02.00. The actual replacement property does not have to be comparable to the displacement property nor the probable replacement property from the Replacement Housing Valuation (RHV). However, the actual price or rent paid for the property must be equal to or greater than the amount of the probable replacement property ("spend-to-get").

In rare cases, a 90-day Owner-Occupant may not be entitled to a PD (calculation is zero, or does not "spend-to-get"); however, an MD and/or IE may still be paid if the displacee meets the same time frames to occupy a DS&S property.

10.04.04.00 Inspections of Replacement Dwelling [49 CFR 24.403(b)]

Before making an RHP or depositing a payment into escrow, the RAP Agent shall inspect the replacement dwelling and determine whether it meets DS&S standards.

The inspection must be complete prior to the displacee committing to the purchase/rental of the property.

The RAP Agent shall complete a DS&S Inspection Report (RW 10-40) as a prerequisite to any replacement housing or rental RHP. The form is completed, signed and dated in ink, and filed in the District RAP file. A copy of the form is not included in the claim package.

For a displaced person with a disability, the replacement dwelling shall be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person (49 CFR 24.2(8)(vii). Features that exist at the displacement property must be available at the replacement dwelling, either as existing or as being added via last resort housing. If medical substantiation is provided, additional features may be added to the criteria for decent, safe and sanitary. (See 10.06.06.00 for replacement housing valuation criteria.)

All specifications relating to the replacement must be answered "yes" to qualify it as a DS&S replacement dwelling.

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The three data sections at the top of the Inspection Report provide a means of comparing the area and room requirements of the people who will occupy the replacement dwelling with its habitable area and room count. The replacement dwelling area and room count must equal or exceed comparability requirements before payment can be made. Estimated dimensions may be used when computing areas for the various rooms.

10.04.04.01 DS&S Inspections for Others

Region/District staff may be contacted to provide DS&S inspections for other states. The RAP Senior should respond promptly to the request and ensure that any relevant issues related to the inspection are obtained in advance of the actual inspection, with appropriate remarks returned to the requesting agency.

There may also be situations that require the RAP Senior to request another agency to perform the DS&S inspection for a displacee that has relocated out of California or the United States. These requests should be made through that area's regional FHWA office, the State Highway Department, or the main governmental body.

10.04.05.00 Inability to Meet Occupancy Requirements [49 CFR 24.403(d)]

No person shall be denied eligibility for an RHP solely because the person is unable to occupy the replacement property within the time frames set forth in 10.08.02.00 for a reason beyond his or her control, including:

1) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the Federal agency funding the project, or the displacing agency; or
2) Another reason, such as a delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the Region/District.

A displacee may enter into a construction contract for rehabilitation of a replacement dwelling or into a legally binding contract for purchase of a replacement dwelling, but cannot secure title and/or occupy the dwelling within the required period for reasons beyond reasonable control. In these situations, the RAP Unit shall consider displacee as having purchased and occupied the dwelling as of the date of the construction or purchase contract. Displacee must have entered into the contract, however, before the normal one-year replacement period expired.

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The RAP Agent shall secure a statement signed by displacee summarizing the reasons beyond their reasonable control and retain it in the case file.

The RHPs under the above situations shall be deferred until the person actually occupies the replacement dwelling. When replacement housing is being built or rehabilitated, partial payments may be made from escrow.

10.04.06.00 U.S. Residency Requirement for RHPs

Displacees who are not present in the U.S. legally cannot receive an RHP. If the household has some occupants that cannot certify they are legal U.S. residents, the RHP for the remaining U.S. residents must be adjusted [49 CFR 24.208(c)]. The unlawful occupants are not counted as part of the family and its size is reduced accordingly. Thus, a family of five, one of whom is a person not lawfully present in the country, would be counted as a family of four.

For owners, the number of bedrooms to satisfy DS&S requirements will be based on the number of occupants having legal status, but will not be less than the number of bedrooms at the displacement property. For tenants, the number of bedrooms to satisfy DS&S requirements will be based on the number of occupants having legal status. For example, a household of seven (including one displacee not present legally, individually occupying one bedroom) would receive an RHP based on a comparable with three bedrooms, even if the displacement dwelling contains four bedrooms. In determining whether or not the "thirty percent of income" rule should be used in calculating the RD, the income of a family member who is not certified must still be considered in determining household income, or the entire household's income cannot be considered for the "thirty percent rule."

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10.04.07.00 RHPs - 90-Day Owner-Occupant's Eligibility [49 CFR 24.401(a)]

A displaced person is eligible for the RHP for a 90-day homeowner-occupant if the person:

1) Has actually owned and occupied the displacement dwelling for not less than 90 days immediately prior to the initiation of negotiations (FWO or NIA); and
2) Purchases and occupies a DS&S replacement dwelling within one year after the later of the following dates (except that the Region/District may extend such one-year period for good cause);
    i. The date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date the full amount of the estimate of just compensation is deposited in the court, or
    ii. The date the displacee is advised, in writing, of the address of a comparable replacement property, within their financial means.

10.04.07.01 90-Day Owner-Occupant RHP [49 CFR 24.401(b)]

The RHP for an eligible 90-day homeowner-occupant is limited to the amount necessary to relocate to a comparable replacement dwelling. The payment shall be the sum of:

1) The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling (PD); and
2) The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling (MD); and
3) The reasonable expenses incidental to the purchase of the replacement dwelling (IE).

If the sum of these three payments exceeds $31,000, then LRH provisions apply.

A 90-day owner-occupant may receive an RD in lieu of the entire RHP (10.04.14.00).

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10.04.07.02 Purchase of Replacement Dwelling [49 CFR 24.403(c)]

A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

1) Purchases a dwelling; or
2) Purchases and rehabilitates a substandard dwelling; or
3) Relocates a dwelling which he or she owns or purchases; or
4) Constructs a dwelling on a site he or she owns or purchases; or
5) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases; or
6) Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value.

10.04.07.03 Rehabilitation of Replacement Dwelling

Rehabilitation and/or home improvement costs must be incurred or committed at the time of purchase and occupancy of a DS&S replacement dwelling. If the displacee was provided the address of a comparable replacement property at the time of displacement, there is no provision for any additional payments for cost incurred by the displacee undertaking home improvements if occupancy of a DS&S dwelling is delayed. Costs to add luxury items, ornamentation, or unusual or atypical features are also not eligible for reimbursement as a replacement housing payment claim. This is a separate issue from rehabilitating a previously owned dwelling (10.04.11.00).

The displacee is required to include any rehabilitation of home improvement work as part of the sales agreement, and/or in the mortgage financing for the purchase and improvement of the replacement dwelling. The rehabilitation or home improvement financing should be adequately structured with other requirements such as adequate building plans and specifications for the work prepared conforming to local building codes and lender requirements, enforceable contractor guarantees, fire and hazard insurance requirements, and bonding to assure satisfactory work and scheduled completion.

There are significant sources of home improvement mortgage financing via the HUD/FHWA loans that may be available for displacees who choose to improve their replacement properties.

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10.04.08.00 Payment Procedures

- Payment into Escrow: All or a portion of the estimated RHP can be placed into escrow to assist the displacee with the financial aspects of the purchase based on estimated closing and loan documents. The Region/District's escrow instructions for the displacee's actual replacement property require the final closing statement state the total price of replacement dwelling.

- Payment After Escrow Has Closed: Displacee may choose to complete the purchase of the replacement property without any of the RHP deposited into escrow in advance. After close of escrow, displacee must submit certified copies of the closing statement and the Truth-In-Lending statements, along with a claim form for reimbursement. The RAP Agent will review all documentation and pay the eligible expenses.

10.04.09.00 Price Differential Calculation

The PD 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:

i. The reasonable cost of a comparable replacement dwelling as determined in accordance with 10.06.00.00.
ii. The purchase price of the DS&S replacement dwelling actually purchased and occupied by the displaced person.

Procedures for computing PD are shown on Table 10.04-A.

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10.04.10.00 Owner Retention of Displacement Dwelling [49 CFR 24.401(c)(2)]

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

1) Cost of moving and restoring the dwelling to a condition comparable to that prior to the move; and
2) The cost of making the unit a DS&S replacement dwelling; and
3) The current fair market value (vs. historical cost) for residential use of the replacement unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site.
4) The retention value of the dwelling, if such retention value is reflected in the 'acquisition cost' used when completing the RHP.

The combined costs of relocation, rehabilitation, and improvement to DS&S standards are eligible for reimbursement to the extent they do not exceed the maximum PD entitlement based on comparable replacement properties. This may include construction of features such as garages if they cannot be moved. Interim or construction financing costs can be considered in the total construction costs to meet the "spend-to-get" requirements for the maximum PD.

The Region/District is not required to prepare an expensive or sophisticated valuation report to determine the value of the property. The Region/District should ensure that its valuation is reasonable and supportable as its determination could be appealed.

Refer to 8.06.08.00 and 8.06.09.00 for additional information on owner retention or relocation of improvements. Under Section 8.06.08.00, Acquisition does not participate in the cost to move the dwelling but pays the "in-place" value of improvements, minus salvage value. Under Section 8.06.09.00, Acquisition pays the cost to move the dwelling to the remainder and reconnect all utilities. In both cases, RAP can pay the PD based on the RHV for a DS&S comparable replacement property based on the fair market value of the DS&S dwelling reestablished on the remainder.

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10.04.11.00 Previously Owned Replacement Dwellings [49 CFR 24.403(c)(6)]

A displacee who moves into a previously owned replacement residential property is still entitled to the RHP (PD, MD, IE) regardless of how long the property has been previously owned, or how it was acquired (inherited, gifted, purchased, built).

To receive the maximum PD, the previously owned replacement property must have a current fair market value equal to or greater than the price of the comparable replacement property (RHV).

The displacee may also be entitled to an MD based on the existing loan that was obtained sometime prior to vacating the displacement property, or a new MD and related expenses (IE) if the displacee chooses to refinance the existing loan on the previously owned replacement property. To be eligible for an MD, the new loan rate on the previously owned replacement property must be less than the existing loan, but more than the loan rate on the displacement property.

If the owner buys back the dwelling at the Department's auction, the reestablished dwelling on the new site or even the remainder qualifies as a previously owned replacement dwelling.

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BASIC COMPUTATION - PD

Type of Replacement	Computation
Purchase of Existing DS&S Replacement Dwelling	The PD is the difference between the acquisition cost of the displacement dwelling and the lesser of the following two amounts: • The price displacee actually paid for a replacement dwelling. • The price of a comparable dwelling as determined by the Department.
Rehabilitation of an Existing Non-DS&S Dwelling	Generally, the purchase price for "spend-to-get" requirements is the amount established in an escrow or written contract as the agreed selling price. The State will consider as part of the purchase price certain work required on the replacement dwelling, provided all such work is completed or contracted for within one year following the close of escrow for the replacement property. If displacee purchases a non-DS&S dwelling on the remainder or other land, the following costs are eligible for reimbursement: • Work necessary to meet DS&S standards. • Major exterior attributes found in both the displacement property and replacement property used to determine maximum payment.
Construction of a New Dwelling	With prior notification, displacee may build a replacement. PD is the difference between the acquisition cost of displacement dwelling and the least of the following two amounts: • Cost of an existing comparable replacement dwelling. • Current fair market value of a comparable newly constructed dwelling.
Ownership of Replacement Dwelling Prior to Displacement	A replacement dwelling owned by displacee prior to State's first offer may be used as a replacement dwelling in the computation of a PD payment. Regardless of the date or the manner in which the residence was acquired, the current fair market value of the residence is used to determine the amount spent by the claimant.

Table 10.04-A

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10.04.12.00 Mortgage Differential (MD) [49 CFR 24.401(d)]

The payment for increased mortgage interest cost shall be the amount, which will reduce the mortgage balance on a new mortgage to an amount, which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments shall include other debt service costs (e.g., points and loan origination fees). The payment shall be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations, and is contingent upon a mortgage being placed on the replacement dwelling.

The MD calculation will result in an amount that is needed to reduce the mortgage balance on the actual replacement property to an amount that would result in the same monthly payment at the displacement property, if there was no change in the term or the mortgage balance.

Payment for increased mortgage cost is contingent upon displacee purchasing, occupying, and obtaining a mortgage on a DS&S replacement dwelling.

EXAMPLE:

The displacee had a $50,000 mortgage at the displacement property with a remaining term of 240 months at 7% = $387 PI

If the new mortgage at the actual replacement property were $50,000 at 10%, the payment for 240 months would be $482 PI. (Remember: assuming no change in term or balance between the displacement and replacement loans.)

How much money is needed to reduce the mortgage at the replacement property to an amount that would result in the $387 PI?

MD calculator will determine the Present Value of a 10% loan for 240 months with a $387 payment.
Present Value: $40,100

The MD payment to the displacee is the difference between the $50,000 and the $40,100, which should be used by the displacee to buy down the loan and reduce the payments (not mandatory).
MD Payment: $9,900

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10.04.12.01 MD Factors

The following factors shall be considered when computing the MD:

1) The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling.

   Note 1: In the event the person obtains a smaller mortgage than the mortgage balance(s) computed in the buy-down determination, the payment will be prorated and reduced accordingly.

   Note 2: To compute the buy-down if the term of the new mortgage is shorter than the remaining term of the displacement mortgage, a hypothetical monthly payment that assumes the displacement mortgage had the same shorter term must be used.

2) The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.

3) The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

4) Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

   - They are not paid as IE;
   - They do not exceed rates normal to similar real estate transactions in the area;
   - The RAP Agent determines them to be normal expenses and necessary for the replacement area, and
   - The computation of such points and fees shall be based on the lesser of the unpaid mortgage balance on the displacement or replacement dwelling, less the amount determined for the reduction of such mortgage balance under this section.

5) The displaced person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person's current mortgage(s) are known (see Exhibits 10-EX-13 and 10-EX-14); and the

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payment shall be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.

See 10-EX-15 for example calculations, and the MD Calculator on the Right of Way Intranet.

10.04.12.02 Items Not Eligible for Mortgage Differential

The following items are not eligible for MD:

- Interim financing or construction loans.
- Mortgages on all types of personal property.
- Mortgages that were materially changed less than 180 days before initiation of negotiations. This includes any change in rate, term, or monthly payment, excluding variable rate mortgages. A new trustee or beneficiary is not a material change.

Exceptions: Adjustable Rate Mortgages (10.04.12.13) and Home Equity Loans (10.04.12.08).

10.04.12.03 Determination of Rates, Points, and Fees

The RAP Agent must document interest rates, purchaser's loan points, and origination or assumption fees and retain all support documentation in District RAP files.

The RAP Agent shall contact three lending institutions in the replacement area, if available, to determine the prevailing interest rate. Additional lenders may be contacted at the Region/District's option. Information shall be updated quarterly or more often if necessary.

10.04.12.04 Mortgage Interest Rates

The MD calculation is made on rates available as of the date of move from the displacement property, not when the displacee enters into a contract to purchase a replacement property (within the one year time period).

The prevailing interest rate shall be the highest interest rate generally charged. In unusual circumstances, the RAP Senior may authorize using an interest rate that exceeds the prevailing fixed interest rate, in which case full documentation must be included in the file. Justification may be the

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unavailability of the current prevailing rate due to the amount of the new mortgage or other similar reasons.
Additionally, if the displacee is required to pay an interest rate that is higher than the prevailing rate due to his or her unique circumstances (e.g., poor credit risk), the higher interest may be used in calculating the MD if the R/W HQ RAP Senior determines that the additional cost could prevent the displaced person from obtaining comparable housing. The diary must be documented to show justification for the rate used.

10.04.12.05 Points and Origination or Service Fees

These fees shall be the highest generally charged by lenders in the replacement area. The same sampling and updating requirements apply as with interest rates. See the above section for information on using higher than prevailing rates.

These fees may be paid as an IE if an actual increased interest rate is not incurred on the replacement dwelling. Where a loan did not exist on the displacement dwelling of a long-term owner, fees related to a loan on the replacement dwelling will not be reimbursed.

The purchaser's (displacee's) points and loan or assumption fees on a down payment should be considered IE. The RAP Unit shall determine rates and document data sources. If interest rates vary, the RAP Unit shall use the mortgage rate closest to the actual mortgage being replaced.

10.04.12.06 Mortgage Differential Calculation

The MD can be calculated by hand, by downloading the "MD Calculator" from the Right of Way Intranet, or by utilizing the MIDP Calculator on the FHWA website.

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Use the following definitions in determining which data and which format must be used.

TERM	DEFINITION
Buy-Down	Increased mortgage interest costs are commonly known as the buy-down. The buy-down is the payment required to reduce the balance on a new mortgage to an amount that can be amortized with the same monthly payment for principal and interest as for the mortgage(s) on the displacement dwelling. The payment includes purchaser's points and loan origination or assumption fees if not paid as incidental costs.
Old Mortgage	Existing mortgage balance on the displacement property.
New Mortgage	Mortgage on the replacement property.
Computed Amount for a New Mortgage	Amount to be financed to maintain the monthly payment (principal and interest) of the old mortgage (the present worth of the current payment of principal and interest on the displacement property).
Standard Buy-Down	New mortgage dollar amount is the same or larger than the computed amount for a new mortgage, and the term is the same or longer than that of the old mortgages.
Reduced New Mortgage Buy-Down	The new mortgage dollar amount is less than the computed amount for a new mortgage.
Reduced New Mortgage Term Buy-Down	The term of the new mortgage is less than that of the old mortgage.
Reduced New Mortgage and Term Buy-Down	The new mortgage dollar amount and term are less than these factors for the old.

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10.04.12.07 Multi-Use Properties - Segregation of MD Payments

The value of the owner's unit is the base for determining payment where displacement or replacement property is more than a single-family dwelling (10-EX-19). The percentage that the owner's unit contributes to the total value of property is used to compute payment. When rental rates are used, the economic rent of the owner's unit is used.

10.04.12.08 Home Equity Loans [49 CFR 24.401(d)]

To compute an MD when the displacee has a home equity loan on the displacement property, the loan balance is the lesser of the present unpaid mortgage balance, or the unpaid balance that existed 180 days prior to the initiation of negotiations. This is important because a home equity loan mortgage instrument could allow the borrower to increase the mortgage balance at will. The interest rate is the prevailing interest rate for the same kind of home equity mortgage instrument. If the home equity mortgage encumbering the acquired property has no set amortization of principal, use the prevailing amortization period of the current market.

10.04.12.09 Government Subsidized Loans

When the displacee has a loan with a government subsidized interest rate that produces a reduced payment on the displacement dwelling, the terms of the loan usually require that the interest subsidy (the cumulative difference between what the displacee paid with the subsidized rate and would have paid without it) be paid upon the sale or other conveyance of the property. Thus, while the subsidy creates an accumulating debt for the mortgagor (displacee), the mortgagor is not required to make monthly or other periodic payments against that debt prior to conveyance. The interest subsidy, therefore, is not a "mortgage" within the meaning of the Uniform Act and, as such, should not be part of an MD. The interest subsidy is a liability to the owner and paying it out of the proceeds of the sale of the displacement property is no different from paying back a mechanic's lien or other similar liability. To compute an MD when a subsidized loan is present, the loan balance is the balance without the subsidy, the term is the remaining term on the loan without additional time for repaying the subsidy, and the interest rate is the subsidized interest rate.

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10.04.12.10 Balloon Payments

On a mortgage with a balloon payment, use the mortgage balance, interest rate, and monthly payment amount that are in effect on the date of acquisition. The monthly payment is normally predicated on a term longer than the actual term of the mortgage, so the computed remaining term is greater than the actual remaining term of the mortgage. Use of the computed remaining term provides the appropriate MD payment.

10.04.12.11 Multiple Mortgages

If there is more than one mortgage, compute the buy-down by completing the computations for each mortgage using the terms of that mortgage. If there is an old second mortgage that has a higher interest rate than any available rate, the buy-down amount will be zero, but you then add points to arrive at an MD. The points are still eligible even though the new mortgage is at a rate that does not exceed the old mortgage.

The RAP Agent must compare the total loan balances when there are multiple mortgages at the displacement and/or replacement properties to ensure that the "lesser of" is used in calculating the MD.

10.04.12.12 Reverse Mortgages

The purpose of the Mortgage Differential (49 CFR 24.401) is to reduce the mortgage balance on a new mortgage to an amount, which could be amortized with the same monthly payment for principal and interest as that for the mortgage on the displacement dwelling. A reverse mortgage, such as a Federal Housing Administration (FHA) home equity conversion mortgage (HECM), is a first mortgage lien. A property owner who has an HECM is entitled to be placed in similar circumstances. Therefore, payments to enable an in-kind replacement, including costs to create another HECM, are eligible expenses. To date, very few reverse mortgages have been written. If the RAP Agent encounters a reverse mortgage, the RAP Senior should contact the HQ RAP Senior.

10.04.12.13 Adjustable Rate Mortgages (ARM)

If the displacement mortgage is an Adjustable Rate Mortgage (ARM), use the mortgage balance, interest rate, and monthly payment amount that were in effect on the date escrow closed or the State had control and possession.

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It is expected that replacement ARM mortgages are the more cost-effective replacement mortgage financing for a predisplacement ARM that has not yet adjusted or has interest adjustment specifications that remain more favorable than currently available fixed rate mortgage financing. If a replacement ARM with equivalent rate adjustment specifications and terms at the displacement ARM is available that would result in a lower MD than the fixed rate mortgage, the available ARM should be used to compute the amount of the MD.

10.04.13.00 Incidental Expenses (IE) [49 CFR 24.401(e)]

The displacee may be eligible for reimbursement for those necessary and reasonable costs actually incurred by the displaced person incidental to the purchase of a replacement dwelling, and customarily paid by the buyer including:

1) Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.
2) Lender, FHA, or VA application and appraisal fees.
3) Loan origination or assumption fees that do not represent prepaid interest (limited to the amount of the displacement mortgage). Only points not paid as part of the MD are eligible.
4) Certification of structural soundness (e.g., home inspection) and termite inspection when required. Other inspections normally required by the buyer that are in the interest of protecting the health and safety of displacees are also an allowable expense:
    - Roof inspection
    - Lead based paint
    - Asbestos
    - Water Heater strapping
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 (limited only by what is actual and reasonable for the selected Escrow Company).
8) State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling).

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9) Such other costs as the RAP Senior determines to be incidental to the purchase, and a standard expense for purchases in the actual replacement area. Examples:
    - Tax report service fees.
    - Sales or use tax on mobile homes.
    - Mortgage Insurance Premium (MIP) or Private Mortgage Insurance (PMI) payments that have been paid in escrow (limited to the amount of the displacement mortgage), and not part of the monthly payment.
    - Association fees that are required on a one-of-a-kind basis as part of displacee's equity position in the replacement property.

Fees associated with a new loan (e.g., appraisal report, credit report, lenders processing or packaging costs) can only be paid if the displacement property had a bona fide mortgage at the time of acquisition.

10.04.13.01 Incidental Expense Limitations (IE)

The following expenses are not reimbursable:

- Expenses incurred by the State's grantor in the acquisition of grantor's property.
- Points that are paid as part of the MD payment.
- Costs paid in advance by the seller of the replacement property and prorated in escrow, such as taxes, insurance, and condominium fees.
- Mobile home sales or use tax on the difference if the actual cost exceeds the calculated replacement cost.
- Motor vehicle registration fees on mobile homes.
- MIP that has been added to the loan amount.
- Warranty insurance.
- Additional costs incurred in securing a larger mortgage on the replacement dwelling than existed on the displacement dwelling.

10.04.13.02 Proof of Payment

Proof of payment of actual expenses is documented by showing separate items on the certified copy of the closing escrow statement, receipts or statements, and canceled checks.

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10.04.13.03 Incidental Expense and Mortgage Financing [49 CFR 24.401(b)(3) and 24.401(e)]

Where there is no mortgage on the displacement property, the costs incurred in connection with securing mortgage financing on the replacement property should not be considered as an eligible IE. These costs are not considered necessary to enable the displacee to relocate to a comparable property.

10.04.13.04 Mortgage Insurance Premiums (MIP)

The Department of Housing and Urban Development (HUD) has established a process for collecting MIP for certain mortgages that HUD insures. Information about MIPs for HUD should be obtained from the local HUD Office or displacee's lender.

Under the new system, the borrower can:

1. Pay a single premium on the mortgage as an up-front cost paid into escrow. This payment represents the total premium obligation for the insured loan; or
2. Finance 100% of the MIP by adding the premium obligation to the loan amount. In effect, this option allows the borrower to finance the MIP over the term of the mortgage loan at the same interest rate.

Mortgage Insurance Premium is reimbursable as an eligible IE if the total premium is paid through escrow for the replacement property (Item #1). It may also be reimbursed as part of the MD expense if the premium is financed as part of the mortgage (Item #2). Reimbursement is limited to the actual amount of MIP that would be required on the unpaid balance of the old loan or the amount of MIP required on the new loan for a comparable replacement dwelling, whichever is less.

The RAP Agent should inform all displacees eligible for MIP reimbursement of both options and advise them that they can maximize their entitlement dollars by selecting the single-premium option.

The amount of MIP varies depending on the term of the loan, credit status of the borrower, and whether the premium is paid up front or financed.

A factor developed by HUD is multiplied by the amount of the mortgage to determine the amount of MIP. Exhibit 10-EX-16 shows the MIP factors and procedures for the two options.

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10.04.13.05 Private Mortgage Insurance (PMI)

In certain instances, conventional lenders require borrowers to pay PMI to obtain a loan. Since the rates charged by firms providing PMI are competitive in nature, no set formula can be used to establish a payment reimbursement procedure.

Generally speaking, a borrower is required to pay the first year's premium up front in escrow. The premium for the remaining term is added to the monthly mortgage payment and collected accordingly. The amount of PMI paid up front in escrow is eligible for reimbursement as an incidental expense.

Payment is based on the proportional share of PMI applied to the remaining balance of the loan on the displacement dwelling or the loan on a comparable replacement dwelling, whichever is less.

10.04.14.00 Converting the Price Differential (PD) to a Rent Differential (RD) [49 CFR 24.401(f)]

A 90-day owner-occupant may elect to rent, instead of purchase, a DS&S replacement dwelling. If so, the 90-day owner-occupant should be advised that they can receive an RD in lieu of the entire RHP (PD, MD, and/or IE) for purchasing a replacement dwelling. Inform the displacee a new RHV will be prepared and Conditional Entitlement Letter provided. A new 90-day occupant Conditional Entitlement Letter will be accompanied by a cover letter stating that the new comparable rental address and computation are being provided per their request.

The maximum RD is calculated in the same manner as with 90-day occupants, except that the rent at the displacement property is based on economic rent, and the RD cannot exceed the calculated Price Differential. If the PD is zero, then the RD is zero. No new RHV is necessary.

Any advanced monies from the RHPs (e.g., credit report and appraisal fees paid into escrow for a potential purchase) that have already been paid should be deducted from the RD to avoid duplicate payments.

The 90-day/30-day Notices required under 49 CFR 24.203(c) that are sent to a 90-day owner-occupant who chooses to rent will provide the addresses of comparable replacement properties that are available for rent, not sale.

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EXAMPLE - 90-day Owner-Occupant who rents:

Comparable Replacement Property lists for:	$180,000
Fair Market Value of Displacement property:	$170,000
Maximum Price Differential:	$ 10,000

Actual fair market rental of the replacement property: $1,800 per month
Fair market rental of the displacement property: $1,600 per month
Difference of $200 per month x 42 months = $8,400 Rent Differential

Owners can receive a $8,400 Rent Differential since it is less than the maximum Price Differential ($10,000). They also have one year from the date they occupied the replacement property rental to convert back to an owner and receive the balance of the Price Differential ($10,000 - $8,400 = $1,600), plus any entitlement they may qualify for as a Mortgage Differential and Incidental Expense. However, they would not be entitled to an additional moving payment for the second move.

10.04.15.00 Last Resort Housing (LRH) Guidelines

The usual method for providing Last Resort Housing (LRH) is by making payments exceeding the statutory limits. When an LRH Super RAP payment (>$31,000) will be made to a 90-day owner-occupant, every effort should be made to deposit all the funds into escrow. However, should the displacee file a claim after the close of escrow on the replacement property, the displacee can be paid any RHP due directly.

Other methods of providing Last Resort Housing include those outlined in Table 10.04-A.

For additional Last Resort Housing Guidelines, see Exhibit 10-EX-44.

10.04.15.01 Last Resort Housing for 90-Day Owner-Occupants

If possible, all funds must be deposited into escrow. However, should the displacee file a claim after the close of escrow on the replacement property, the displacee can be paid the full RHP directly.

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10.04.16.00 Replacement Housing Payment For 90-Day Occupants Eligibility [49 CFR 24.402(a)]

A tenant occupant displaced from a dwelling, who has occupied the property for at least 90 days prior to the ION, may be entitled to an RHP in the form of an RD or a Down Payment (DP) if the displacee rents, or purchases, and occupies a DS&S replacement dwelling within one (1) year after the date he or she moves from the displacement dwelling.

Only one replacement housing or rental payment shall be made for each dwelling unit, except in the case of multifamily occupancy of one dwelling unit (10.04.17.00).

10.04.16.01 Rent Differential (RD) Offer

The RD is the amount offered to the displacee, in writing, which provides displacees with an estimate of monthly payments they can rely on as they seek replacement dwellings. If the RD offer is not acted on within 180 days, it shall be automatically withdrawn and a new RD will be calculated based on the new monthly rent at the displacement dwelling.

The displacee must be advised in advance that the time period to act on the original RD offer will be withdrawn if a replacement property is not located soon and that the new RD may be more or less than the original RD offer, depending on the market and the monthly rent the displacee has been paying.

10.04.16.02 Amount of Payment [49 CFR 24.402(b)(1)]

An eligible displaced person that rents a replacement dwelling is entitled to a payment not to exceed $7,200 for rental assistance, prior to LRH provisions. Such payment shall be 42 times the amount obtained by subtracting the base monthly rental (10.04.16.00) for the displacement dwelling from the lesser of:

i. The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or
ii. The monthly rent and estimated average monthly cost of utilities (10.04.16.01) for the DS&S replacement dwelling actually occupied by the displaced person.

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10.04.17.00 Base Monthly Rent [49 CFR 24.402(b)(2)]

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

i. The average monthly cost for rent and utilities at the displacement dwelling for the three (3) months prior to the ION.
   - For an owner-occupant, use the economic rent for the displacement dwelling.
     - if owner rents the property back from the Region/District after escrow closes, use the actual rent paid (including estimated utilities) after a three (3)-month period has passed.
   - For a tenant who paid little or no rent (10.04.16.02) for the displacement dwelling, use economic rent,
     - unless its use would result in a hardship because of the person's income or other circumstances; or

ii. Thirty (30) percent of the person's average monthly gross household income (10.04.18.00) if the annual amount is classified as "low income" by the U.S. Department of Housing and Urban Development's Annual Survey of Low Income Limits (see HUD's Low Income Chart, or

iii. The total of the amounts designated for shelter and utilities if receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities. The portion of the welfare assistance designated for food (e.g., food stamps) is specifically excluded from being considered as income [7 USC Section 2017(b)].

10.04.17.01 Utilities

Utilities are defined as expenses for electricity, gas (and other heating and cooking fuels), water, and sewer/septic. Other utilities normally included in a local utility agency bill such as street cleaning, neighborhood cleanup, storm drains, etc., must not be included in the Rent Differential.

The term "average monthly cost of utilities" means the average monthly cost of the displacee's utility costs for the last 12 months.

The term "estimated average monthly utility cost" means the District's estimate of utility expenses for the comparable replacement property considering its size and location.

The cost for heat is usually included in a natural gas or electric bill. It is appropriate to consider the cost of wood or coal if they are typically used for heat in the area. Liquefied gas is also an appropriate utility expense.

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The District is responsible for developing estimated average utility costs related to the replacement comparables. Each district, and often each neighborhood, will have different data sources. The utility companies often have the most reliable information; HUD or local housing agencies may also have useful information. If there are no reliable data sources, then area survey methods are used. Unless absolutely necessary, an area wide survey is not needed. Contacts with local utility companies are usually sufficient.

10.04.17.02 Calculating Utilities

The RAP Agent will obtain a list of utilities included in the rental rate from the landlord unless the information was obtained during the FWO and noted on the Owner's Certificate of Tenants. The tenants will be instructed during their First RAP Call to obtain actual costs from their utility providers. Ideally, the utility providers should respond to the tenant's request by sending a formal letter stating that:

> "monthly average of your actual utility bill for *(type of utility)* for the last 12 months of service at the *(displacement address)* was $*(average monthly payment)*."

The RHV report must show the utilities included in the displacement rent and the comparable replacement rents. The RD calculation is based on the displacement rent plus the actual average monthly utilities that are the responsibility of the displacee, and the most comparable replacement rent plus the estimated average monthly utilities that would be the responsibility of the displacee.

10.04.17.03 Little or No Rent [49 CFR 24.402(b)(2)(i)]

Little or no rent is defined as a rental rate that is unreasonably below the market rental rate for a comparable dwelling in the area. The term "little rent" is defined as 25% below the market rent established in the appraisal.

The provision of little or no rent addresses payment computation for occupants who pay no rent or unreasonably low rent and for whom a payment based on such rent would result in a windfall. If the occupant's actual rent is below market rent, the RAP Senior must document in the RAP file that no kinship, friendship, or contrivance exists and that the actual rent will be used in the payment computation.

If the RAP Senior determines that a situation exists, such as tenant is providing a service in lieu of all or a portion of rent, or the tenant's relationship to

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landlord (e.g., kinship or friendship) may not result in an arm's length transaction, then economic rent (without including the actual average utilities) must be used to calculate the RD.

However, if the use of economic rent will create a hardship for the displacee, the RAP Agent must use the actual rent and document the RAP file justifying the use of actual rent vs. economic rent.

In the event a displacee enters into a kinship friendship situation at the replacement dwelling for an amount known to be much higher than market rent for the area (but which would maximize their RHP), claims should be supported by such documentation as may be reasonably required to support expenses incurred [49 CFR 24.207(a)]. The Relocation Agent may verify claims by asking for supporting documentation.

These procedures do not apply to Department-owned properties where actual rent is less than fair market rent due to the Department's affordable rental rate policy.

If displacee's rental rate is lower than market rent because of a public subsidy and the subsidy of a similar private or public subsidy program is available to displacee and will be continued after displacement, the market rent of displacement dwelling is used in the computation. If the subsidy will be discontinued after the tenant vacates, actual rent is used. It must be documented that public housing is not available.

10.04.18.00 Subsidized Housing

Rent Differentials for tenants who occupy publicly subsidized rental housing and relocate to private housing or publicly subsidized housing are calculated so a tenant will not receive duplicate payment for a rental subsidy through both the Relocation Assistance provisions and a Federal Rental Subsidy Program. Publicly subsidized housing is defined as:

> "Low rent public housing, FHA Sections 221(d)(3), 236 and other existing projects where rates are set on the basis of the tenant's income."

Subsidized housing can also be any rental assistance from a federal, local or other quasi-governmental authority (including stipends from BIA or other tribal entities). The person's RD will be computed on the basis of the person's actual out-of-pocket cost for the replacement housing.

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Occupants of publicly subsidized rental housing must be identified, and all replacement housing valuations and procedures must comply with the following:

- Tenant moves from publicly subsidized housing to publicly subsidized housing - the displacement rent and actual replacement rent are the amounts actually paid by the tenant.
- Tenant moves from privately financed housing to publicly subsidized housing - the existing rent is calculated in accordance with the provisions of Section 10.04.20.00. The replacement rent is the amount the tenant pays for the subsidized housing.
- Tenant moves from publicly subsidized housing to privately financed housing - the existing rent is the amount the tenant pays for the publicly subsidized displacement housing, not including the supplemental rent furnished by the public agency.

The third option is to be used only when it can be documented that DS&S publicly subsidized housing is not available to displacee.

However, if the tenant qualifies for comparable DS&S subsidized housing that is available in the replacement area, but the tenant chooses to rent nonsubsidized housing, the RD is based on what the tenant would have received if relocating to subsidized housing.

The RAP Agent should explain to the displacee that if they go off the government housing subsidy program, then the relocation housing payment is considered as income for the purposes of determining if they are eligible to return to a subsidized housing program in the future. Additionally, there is no guarantee they would be able to do so, and if so, when.

10.04.18.01 Section 8 Comparable Replacement Housing

49 CFR 24.2(a)(6)(ix) states that comparable replacement housing for a person receiving government housing assistance before displacement 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.

A public housing unit may qualify as a comparable replacement dwelling only for a person displaced from a public housing unit. A privately owned dwelling with a housing program subsidy tied to the unit may qualify as comparable replacement dwelling only for a person displaced from a

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similarly subsidized unit or public housing. A housing program subsidy that is paid to a person (not tied to the building) such as a HUD Section 8 Housing Voucher Program may be reflected in an offer of a comparable replacement dwelling to a person receiving a similar subsidy or occupying a privately owned subsidized unit or public housing unit before displacement.

10.04.19.00 Monthly Gross Income

Thirty percent (30%) of a household's gross income can be used to determine the RD, but only if the annual income is classified as low income under the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits (usually updated February of each year). RAP Agents can find the list at the RAP website, and at FHWA's website.

The RD is based on the lesser of the base monthly rent and utilities at the displacement dwelling OR 30% of the household's average monthly gross household income if the total amount is classified as low income for the displacement area [U.S. Department of Housing and Urban Development (HUD)].

To determine if the 30% rule applies, the RAP Agent shall advise the displacee of this method of computing the RD and ask if the actual monthly rent (plus estimated average monthly utilities) of the displacement dwelling exceeds 30% of monthly gross income. If the answer is "no," the Agent annotates the parcel diary. If the answer is "yes," the Agent:

- Secures an Income Certification (RW 10-39) from the displacee using 10-EX-39 as a guide on appropriate sources of income.
- Compares the annual gross income on the Certification to the amount identified as low income for the displacement area on HUD's survey (see Web site above). If the income is higher, the displacee's income cannot be used in the RD calculation. The RAP Agent must use the annual income for the entire household and compare it to the total number of persons living in the displacement area regardless of age or residency status.
- Computes the rental RHP per Section 10.04.15.00.

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EXAMPLE:

1. Husband and wife live alone in a residence, but the Income Certification shows that all income is from only one person. Follow HUD's list for '2 persons.'
2. Husband and wife live in a residence with two minor children. Follow HUD's list for '4 persons.'
3. Husband and wife live in a residence with two minor children, and a relative who is not a legal U.S. resident. Follow HUD's list for '5 persons.'

Monthly gross income is based on all income from all persons over 18 years old for the 12-month period preceding the date of determination of income. Do not include the income of a full-time student over the age of 18 UNLESS that person is the head of the household or the person's spouse.
HUD's survey is usually updated in February of each year and lists all the counties in California.

10.04.20.00 Income Verification

When displacees claim that income should be the basis for calculating the RD, all household members with an income must complete the Income Certification (RW 10-39). Relocation benefits vest at the time of the Initiation of Negotiations (ION). Therefore, the date of determination is either the date of the Notice of Intent to Acquire (NIA) or the First Written Offer (FWO).

The income stream in existence at the time of the ION should not be adjusted if the displacee's income changes at a later time. The income is verified once and is not adjusted for subsequent events. There is no statutory provision for adjusting relocation claims or payments based on changes in income after the eligibility determination has been made.

The RAP Agent must verify all income-based computations by reviewing displacee's income records. [A copy of an income tax return for the tax year preceding the determination should not be the only source for verifying income for the last 12 months. However, it can be used as an indicator of low income if no other documentation is available. The displacee may have to request a copy of their most recent tax return from the State Franchise Tax Board. (Note: Advise the displacee that they may have to pay for the copies.)] Both the Agent and the displacee should review "Gross Income When Calculating Rental Differential" (10-EX-26) prior to completing and reviewing the Income Certification to ensure the appropriate type of income is considered.

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The RAP Agent must document the type of documentation used to verify the household's gross income for the last 12 months, such as employers or credit reporting sources, pay stubs, benefit statements, bank deposits, and other periodic receipts of payment.

A diary entry is made indicating the method and result of the income verification. When income has been verified and documented in the District's file, return any documents that were used to verify the Income Certification to the displacee. After the RAP Agent has verified all the information on the Income Certification, a decision must be made as to its validity. Because of the nature of the payments based on income, the burden of proof rests on the displacee. If the RAP Agent has reason to believe the information is incomplete or incorrect because the rent and utilities to gross income ratio is too high (60% to 85%), the file should be documented and the displacee advised that the Rent Differential will be based on the actual rent or the economic rent, with utilities.

Use the following guidance when determining the displacee's ability to pay for monthly living expenses:

The RAP Agent should deduct the actual monthly rent and utilities from the monthly income as stated on the income certification to determine if it is feasible that the displacee has enough remaining funds to pay for daily living expenses.

Food	14%	If the household receives food stamps, use 0%.
Transportation	19%	If no one is working outside the home, use 10%.
Medical Costs	2%	If the household receives MediCal or Medicaid, use 0%.
Other	5%	Clothing, nonperishables, ineligible utilities.
Minimum %	40%	15% if the household receives food stamps, MediCal and no one works outside the home.

The RAP Agent can make slight adjustments to the percentage if the displacee's situation warrants same, such as a student living in a dorm or boarding situation, the household is excessively large, the members of the household raise or grow their own food, or several families are engaged in bartering services for food and clothing. However, if the household receives a benefit or service on a regular basis in lieu of all or part of their income (e.g., waiter receives meals at a restaurant, or a bus driver gets to take the

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vehicle home each night), then the value of that service or benefit must be included in the total household income.

Exclusions to income are listed on 10-EX-26. Household income for purposes of this regulation does not include program benefits that are not considered income by federal law. An additional list of income exclusions can be found at FHWA's website which is continually updated. If there is a question on whether or not to include income from a specific program, contact HQ.
If the documentation provided is determined to be accurate and reasonable, the file must be documented outlining how the 30% was verified and calculated.

Non-tenured occupants MUST provide an Income Certification prior to determining if they are eligible to receive any RHPs.

If any member of the household will not complete their portion of the Income Certification or provide evidence of income, the entire household's income will not be considered in computing the RD.

10.04.21.00 Computing the Rent Differential Payment

The RD is calculated by comparing base rent plus average monthly cost of utilities on the displacement dwelling to base rent plus estimated average monthly cost of utilities on the actual replacement dwelling. If the computed rental assistance payment exceeds $7,200, see 10.04.23.01.

The utility cost used to verify "spend-to-get" in the actual replacement property is the amount of the estimated average utility costs used in the calculation of the RD. It is not necessary to determine the estimated average utility costs in the actual replacement area.

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EXAMPLE

Displacement Rent	$400 month
Average Cost of Utilities	$150 month
Base Monthly Rent	$550 month
Most Probable Comparable Rent	$500 month
Estimated Average Cost of Utilities	$175 month
Comparable	$675 month

Scenario 1:

Actual Replacement Rent	$475 month
Estimated Average Cost of Utilities	$175 month*
Actual Replacement Rent	$650 month

Must pick the lesser of Actual Replacement Rent or the Comparable to calculate the RD =

$650 - $550 x 42 months = $4,200

Scenario 2:

Actual Replacement Rent	$550 month
Estimated Average Cost of Utilities	$175 month
Actual Replacement Rent	$725 month

Must pick the lesser of Actual Replacement Rent or the Comparable to calculate the RD =

$675 - $550 x 42 months = $5,250

* Always use the Estimated Average Cost of Utilities from the RHV when determining "spend-to-get" at the actual replacement.

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CALCULATING RENTAL ASSISTANCE PAYMENTS

Situation	Method
Average or estimated average rent and average monthly utility costs of the displacement dwelling do not exceed 30% of monthly gross income.	Step 1 - Find the lower of estimated monthly replacement rent or actual rent paid on replacement property, including average monthly utility costs. Step 2 - Determine the average monthly rent and average monthly utility costs of displacement property. Step 3 - If Step 2 result is larger than or equal to Step 1, the answer is zero (0). Step 4 - If Step 2 result is smaller than Step 1, subtract Step 2 amount from Step 1 and multiply the result by 42 (months).
Average monthly rent on the displacement property, including average monthly utilities, exceeds 30% of monthly gross income, and displacee qualifies as "low income," per HUD chart.	Step 1 - Find the lower of estimated monthly replacement rent or actual rent paid on replacement property, including average monthly utility costs. Step 2 - Consult HUD chart to determine if displacee qualifies as low income. If so, continue to Step 3. Step 3 - Determine 30% of monthly gross income of the displacee. Step 4 - If Step 2 result is larger than or equal to Step 1, the answer is zero (0). Step 5 - If Step 2 result is smaller than Step 1, subtract Step 2 amount from Step 1 and multiply the result by 42 (months). NOTE: When rental assistance payments by other public agencies are involved, the average monthly rent is the amount actually paid by displacee excluding any rent subsidy. Calculate the payment as above.

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10.04.22.00 Conversion of Payment [49 CFR 24.403(e)]

A displacee who initially rents a replacement dwelling and receives an RD may be able to convert their status to homeowner if a DS&S replacement property is acquired within the one-year prescribed period (see Section 10.08.02.00).
An eligible 90-day owner-occupant that initially rents a replacement property (see 10.04.14.00) may still be eligible for the full RHP if a DS&S replacement property is acquired within one year of the prescribed period. The "spend-to-get" requirement for the purchase of the replacement property is based on the last RHV. The amount of the RD paid when the initial replacement property was rented must be deducted from PD, MD, and/or IE that the displacee may be eligible to receive.

An eligible 90-day occupant that initially rents a replacement property may still be eligible for a DP if a DS&S replacement property is acquired within one year of the prescribed one-year period (see Section 10.08.02.00). The amount of the RD paid when the initial replacement property was rented must be deducted from the total RD based on the last RHV. The remaining amount can be used as the down payment and incidental expenses.

However, an eligible displacee who occupies a replacement dwelling that costs less than the comparable property used in the RHV, and would otherwise qualify for the full RHP, cannot relocate into a higher-cost DS&S dwelling at a later time and claim the remaining RHP. Once the replacement property has been inspected and any or all of the RHP paid, the displacee is vested and the maximum amount of the RHP is established.

10.04.23.00 Manner of Disbursement [49 CFR 24.402(b)(3)]

An RD may be disbursed in either a lump sum or in installments. However, the full amount of the RD vests immediately when the displacee occupies a DS&S replacement dwelling and "spends-to-get," even if there is a later change in the person's income or rent, or in the condition or location of the person's housing.

Although rental assistance payments of $7,200 or less are usually made in one lump sum payment, displacee may request annual installment payments that are not to extend more than 42 months beyond the move-out date.

Disbursement of rental assistance payments in excess of $7,200 is made in accordance with the last resort housing guidelines.

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10.04.24.00 Rent Differential Payment Procedures - Last Resort Housing (LRH)

Rent Differential payments in excess of $7,200 must be paid in accordance with Last Resort Housing provisions. Such payments that do not exceed $10,000 are usually paid in a single lump sum payment. Payments in excess of $10,000 are paid in a maximum of four payments (see RW 10-41).

A displacee may request that installment payments are made even if the Rent Differential is less than $10,000. The RAP Agent must fully document that displacee requested the installment payment option and any subsequent changes in the manner of payment.

Regardless of the amount, displacee's Rent Differential is fully "vested" immediately when they occupy DS&S housing and meet the "spend-to-get" requirement, even if there is a later change in the person's income, occupancy, family characteristics, rental rate, or in the condition or location of the actual replacement property. Recertification of DS&S housing is not required after the initial qualifying inspection.

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10.04.24.01 Installment Payments

Last resort housing rental assistance payments in excess of $10,000 are to be disbursed in four payments as follows:

Rent Differential Payment Schedule

Advanced Payment:	Prior to Occupancy	June 15th	First month's rent, last month's rent, and security deposit.
1st installment:	Date of Occupancy	July 1st	6 months of the Rent Differential divided by 42, OR the balance if the total amount remaining after the 1st installment would be less than $10,000.
2nd installment:	Six months later	January 1st	6 months of the Rent Differential divided by 42, OR the balance if the total amount remaining after the 2nd installment is less than $10,000.
Final Payment:	Six months later	July 1st	Balance of the Rent Differential

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EXAMPLE:

Comparable Rent including $75 utilities $1,500
Displacement Rent including $25 utilities $ 500
= $1,000 x 42 months = $42,000 Rent Differential

Actual Replacement Rent of $1,550 plus the $75 utilities used to calculate the Rent Differential = $1,625

Installments:
Advance Payment to Landlord for the security deposit of $1,000, first month's rent of $1,550, and last month's rent of $1,550 (if requested by the displacee) = Total $4,100.

Balance of Rent Differential ($37,900) paid in three installments. First and second installments of $6,000 ($1,000 x 6 months). The first installment is due within 15 days of displacee's occupancy of the actual replacement property.

One year from the date of occupancy, the balance of $25,900 is paid to the displacee.

There may be times when it is in the Department's best interest to make periodic payments directly to the landlord. (See Exhibits 10-EX-17, Department/Displacee Agreement for Special Installment Payments, and 10-EX-18, Tenant/Landlord Rental Agreement for Direct Payment.)

RW 10-41 (Computation of Rent Differential Payment) must show total entitlement, installment amount, and payment periods. Approval of the first installment constitutes approval of the total entitlement and periodic payment schedule.

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10.04.24.02 Subsequent Installments

The displacee must be provided with claim forms for subsequent installment payments and the schedule for submitting the claim forms. Displacee must also be advised to inform the RAP Agent of any changes in address or location during the 12-month period.

Thirty days prior to the anniversary date, the RAP Agent shall provide a claim form to displacee. Upon return of signed form, the installment may be paid. No DS&S inspection is required.

If displacee has vacated replacement property and cannot be found after reasonable effort, no further action is taken with respect to that or subsequent installments unless displacee reappears. When payments are suspended because displacee disappears, the RAP Agent shall document the file to show extent and results of efforts made to locate party.

The suspension time counts toward displacee's eligibility for relocation assistance payments; e.g., disappeared for 42 months, no further payments are authorized.

10.04.25.00 RD Payments - Documentation

Documentation in support of the claim should be in the District RAP file, including:

- Claim form, Form RW 10-2.
- Computation of Rent Differential Payment, Form RW 10-41.
- Current Replacement Housing Valuation.
- Copy of Rental Agreement for replacement property or evidence of rent paid on the replacement property.

10.04.26.00 Down Payment (DP) [49 CFR 24.402(c)(1)]

An eligible 90-day occupant (tenant or owner), or Non-tenured occupant, who purchases a DS&S replacement dwelling may convert the RD to a DP. Even if the Rent Differential is zero, an eligible 90-day occupant or Non-tenured occupant is entitled to the minimum DP of $7,200 if they meet the "spend-to-get" requirements.

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A 90-day occupant or Non-tenured occupant whose RD is $7,200 or less automatically qualifies for a $7,200 DP. If the RD is over $7,200, the DP is limited to the amount of the RD (10.04.13.01). Example:

- RD $4,200 = DP $7,200
- RD $9,100 = DP $9,100

A displaced person eligible to receive a payment as a 90-day owner-occupant is not eligible for this payment.

A Subsequent occupant is not eligible for this payment. If the RD calculation is zero, then the DP would be zero.

10.04.26.01 Application of Down Payment (DP) [49 CFR 24.402(c)]

The DP is designed to help eligible displacees purchase and relocate to DS&S comparable housing. Eligible displacees may be entitled to receive the full amount of the RD if it is applied toward the down payment for the purchase of the replacement property, even if this results in a 100% purchase. Any remaining RD can be applied to the incidental expenses related to the purchase, including nonrecurring items paid in escrow.

10.04.26.02 Conditions (DP)

The following conditions apply to entitlement of the DP:

- Displacee must meet eligibility requirements in Section 10.04.01.00.
- Displacee may finance by any means or may pay cash.
- Displacee must apply the funds to the DP and nonrecurring IE, up to the amount of the RD.
- Displacee must pay for anything in excess of the calculated entitlement. The District is not committed to paying for DP actually made or required for a replacement.

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10.04.26.03 Manner of Disbursement (DP)

If the DP is $7,200, and the displacee is entitled to the full amount after submitting supporting documentation that all the funds will be used for the down payment and the qualifying incidental expenses, the displacee can be paid directly after the close of escrow on the replacement property, or the funds can be assigned by the displacee to the escrow account. If the amount of the DP is over $7,200, the RD must be placed into escrow and applied toward the purchase of housing. The only exception is to repay funds advanced by displacee (e.g., credit report, appraisal fee). Displacees cannot be reimbursed for funds deposited with the Offer and Acceptance (a.k.a. earnest deposits).

10.04.26.04 Conversion of Payment (RD to DP) [49 CFR 24.403(e)]

A displaced person who initially rents a replacement dwelling and receives an RD that is less than $7,200 or the full amount (e.g., because an installment payment was made, or the displacee did not "spend-to-get") is eligible to receive a DP if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed one (1)-year period. Any portion of the RD that has been previously paid shall be deducted from the DP.

EXAMPLE:
Non-LRH (RD = $2,100)

DP allowance	$7,200
Less lump sum rental assistance already paid	-$2,100
Additional State payment toward DP and eligible IE	$5,100

EXAMPLE:
LRH (RD = $21,000)

DP allowance	$21,000
Less installment payment of RD already paid	-$ 2,100
Additional State payment toward DP and eligible IE	$18,900

The remaining cash entitlement must be applied toward the DP or IE for the replacement dwelling being purchased. Escrow instructions must clearly state that none of the remaining entitlement may go directly to displacee.

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10.04.26.05 Down Payment into Escrow

The following procedures for DPs into escrow are in addition to those outlined above.

If displacee has agreed to buy a replacement, they shall be advised of the amount available and the need to apply all funds to the purchase of a replacement.

When escrow is opened, the RAP Agent must inform the escrow agent of the DP arrangements and must request:

- A copy of the escrow instructions or a similar document.
- The itemized estimate of escrow expenses, if possible.
- A certified copy of the closing escrow statement and Regulation "Z," if applicable, at the time escrow closes.

After the above information is received and reviewed, the Agent should:

1. Calculate the exact amount of payment.
2. Prepare a claim form and have displacee sign it (Form RW 10-2).
3. Prepare an Assignment of Funds Letter (Exhibit 10-EX-9) and have it signed.
4. Prepare an Escrow Instruction Letter (Exhibit 10-EX-11) to escrow company.

If necessary, the advance payment may be based upon estimated IE with reconciliation at the close of escrow. The RAP Agent should recalculate the DP entitlement and pay any additional costs as soon as they are known, assuring the funds are distributed properly between the loan account and displacee. If correct instructions are given, overpayments will be automatically refunded from escrow. A copy of the certified closing statement is attached when the additional claim is processed.

When escrow has closed, a certified copy of the closing statement is placed in the District RAP file.

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10.04.26.06 Down Payment to Displacee

When escrow on the purchase of displacee's replacement closes before the State makes any payments, displacee is reimbursed for the DP actually applied to the loan and all IE paid in escrow. Any remaining amount of the RD can be paid directly to the lender using an assignment from the displacee.

10.04.26.07 Incidental Expense for 90-Day Occupants and Subsequent Occupants

When an eligible 90-day occupant or Subsequent occupant decides to purchase rather than rent replacement property, a portion of the DP benefit may be attributed to IE. In LRH situations, these amounts may be substantial. The following factors must be taken into consideration when the District pays for these expenses:

- The cost to displacee must be ordinary and necessary for a buyer to pay in a normal transaction where the replacement dwelling is located. Costs may vary from county to county and city to city within California.
- Loan broker, origination, and application fees are usually all inclusive in the MD reimbursement for homeowner-occupants. For tenants, these fees may be added together and paid to the extent they do not exceed predetermined prevailing loan establishment fees.

Eligible IE must be limited to those nonrecurring costs that would have been reimbursable for the 90-day Owner-Occupant (e.g., loan origination fees, title search, recording fees, but not prepaid expenses such as estate taxes and property insurance) but without the usual restrictions that the amounts be limited to the amount of the displacement mortgage or the value of the comparable replacement property.

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10.04.27.00 Owner-Occupants with Partial Ownership Interests

When a dwelling is owned by several persons and occupied by one or more owners, the RHP is the lesser of:

- The difference between the owner-occupant's share of the acquisition cost of the acquired dwelling and the actual cost of the replacement dwelling.
- The difference between the total acquisition cost of the acquired dwelling and the amount determined by the State as necessary to purchase a comparable dwelling.

When the partial owner-occupant purchases a replacement that is less costly than the estimated replacement cost and is DS&S for the owner-occupant, then "spend-to-get" is that party's share in the acquisition price plus the PD. The other partial owner that does not occupy the property is not entitled to a relocation assistance payment (RHP, Nonoccupant Owner who Leases Space to Another) except for possible moving of personal property that is stored on site.

EXAMPLE:

Cost of replacement	$150,000
Cost of acquisition	-$130,000
PD	$ 20,000

Assume there are two partial owners of the acquired dwelling. The partial owner-occupant has a one-half interest in the displacement or $130,000 ÷ 2 = $65,000. The total "spend-to-get" for this partial owner-occupant is $85,000 ($65,000 + $20,000).

However, if the RAP Agent determines that the displacee needs to obtain a loan in order to relocate, e.g., in the case of an owner-occupant with a partial interest who must obtain a loan to purchase a replacement property, the cost of obtaining the loan could be considered "necessary" and would be an eligible expense.

49 CFR 24.401(c)(1) requires that the RHP for an owner-occupant with "partial interest" in the property being acquired is computed using the full acquisition cost of the displacement dwelling. To receive the maximum payment, an owner-occupant with a partial interest must spend his or her share of the acquisition payment, plus the amount of the computed RHP, in order to receive the maximum computed RHP. Owner-occupants with partial interests

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who cannot secure financing or who cannot afford to purchase comparable replacement housing may be treated as tenants and receive an RD. The Department is not required to provide owner-occupants with partial interests a greater level of assistance to purchase a replacement dwelling than what would have been required to provide such persons if they owned fee-simple title to the displacement property.

10.04.28.00 State Rental Prior to Acquisition

Whenever a tenant-occupied property has been appraised, the owner has received the Department's offer, and control of the property by the Department (by Grant Deed, Order for Possession, Right of Entry, or other means) is imminent, the District may enter into an agreement with the owner whereby the Department will rent the property if it becomes vacant. Such properties include, but are not limited to, apartment units, commercial buildings, and mobile home park spaces.

The District must consider and document whether or not:

- Comparable vacant rental properties in the subject area are scarce.
- There is a good probability that the property would be re-rented prior to the Department gaining control of the property.
- The Department's possible cost of relocation benefits to any subsequent tenants (Non-Tenured) will exceed the cost to rent back the property from the owner.
- Reoccupation of the parcel might delay Right of Way's delivery of the property for construction.

If justified and approved, the Acquisition Agent will offer to rent the property in accordance with procedures in the Acquisition Chapter of the Right of Way Manual.

Rental payments to the owner must cease when the Department gains control of the property.

10.04.29.00 Mixed-Use Properties

If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered its acquisition cost when computing the PD.

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Where a displacee lives on the same premises as a displaced business, multi-use/mixed use property, farm, or nonprofit organization, a determination must be made as to whether that living situation falls within the definition of "dwelling" in the federal guidelines. 49 CFR 24.2(a)(10) defines "dwelling" as "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." If the displacee was legitimately living in such a circumstance, then the residential value must be segregated (10.06.18.00).

10.04.30.00 Multiple Households of Displacement Property

If two or more individuals are living together and occupying one dwelling unit as one household, the Department is not obligated to provide them with more than one replacement dwelling. Relocation eligibility is based upon the displacee's share of the replacement dwelling.

However, when two or more occupants maintain separate households within the same dwelling, they have separate entitlements to relocation payments. The decision as to whether two separate households were maintained within the same dwelling is a judgment determination by the RAP Senior. The parcel file should be sufficiently documented to support the decision reached.

Issues to consider are:

- The use of the dwelling (sharing of cooking and food storage facilities, bathroom facilities).
- The relationship of the occupants. Note: Students sharing a house together shall be considered as one household per FHWA.
- One or more of the occupants are paying rent to others in the household as evidenced by rent receipts, tax returns claiming a renter's credit, or tax returns claiming rental income.

AND

- It is clear (by signed statements) that the occupants are not moving to a replacement site together.

The payment computation for each household should be based on the part of the dwelling that the household occupies and the space that is shared

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with others. An attempt should be made to locate similar comparable DS&S living facilities that the households can share - if it is the most cost-effective method. The record should be sufficiently documented to support the decision reached.

See 10-EX-34 for additional guidance on determining multiple households.

Note: If the owner rents or leases a room(s) in the displacement dwelling to another party, there should be no reduction of rooms when considering a most comparable replacement dwelling for the owner.

10.04.30.01 Multiple Households of Replacement Property

Displacees may choose to rent or purchase a replacement property with another party who is not part of the relocation. Relocation eligibility must be based on the displacee's share of the replacement property. If a displacee enters into a rental agreement with another party, the RAP Agent must determine the percentage of financial responsibility that the displacee has accepted. Generally, each party will be paying one-half of the rent and utilities, so that a one-half share of their replacement dwelling rental rate must be used to determine the "spend-to-get" requirement before paying any portion of the RD.

If the displacee chooses to purchase a replacement property with another person who was not part of the relocation, then the percentage of ownership as indicated in the title documents must be used to determine the "spend-to-get" requirement before paying any portion of the RHP (either PD/MD/IE or a DP).

Example 1: An elderly 90-day owner-occupant chooses to purchase a replacement property with her recently divorced daughter. Title to the replacement property indicates that each has a divided one-half interest. Therefore, the displacee's PD/MD/IE will be based on one-half of the purchase price, mortgage amount, and incidental expenses.

Example 2: Parents pay cash to help their child buy a replacement dwelling. Title to the replacement property indicates that each has an undivided one-half interest. While the parents must be on the title, this will not affect the computation of the PD that may be placed into escrow.

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10.04.30.02 Documentation for Multiple Households

If there is more than one family in residence in a dwelling unit, the Acquisition or RAP Agent should obtain the following additional information:

- Names of heads of household.
- Makeup of each family.
- Relationship among the various heads of household.
- Number of rooms each family privately occupies.
- Move-in date of each family.
- Amount of rent or other consideration each additional family or individual pays to the owner.

This data is used to apportion relocation payments among the families or make more than one relocation payment when the property is vacated, if necessary. This additional data is also on the Certificate of Occupancy (RW 10-25). Any variation between information previously obtained (e.g., from the appraisal report or appraisal section data cards) and that obtained from the initial RAP interview must be explained in the RAP Diary.

10.04.30.03 Proration When One Household Splits into Two or More

Eligible occupants who subsequently separate or divorce and establish separate households, whether by choice or by litigation, qualify for payments as one displaced family.

The payments may be divided between the occupants (husband and wife or other adult household members who are listed on the rental agreement or the title report) in any proportion on which they agree. This requires a written agreement establishing the method of division and the percentage each party may claim. The agreement may not be changed without the written consent of both parties.

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EXAMPLE:

Comparable DS&S replacement rent for a 4-bedroom home is $850/month plus $100/month for utilities = $950/month.

Displacement property is 3 bedrooms and rents for $500/month, which includes all utilities, except electricity, which averaged $50 per month, for a total of $550/month.

Household consists of 7 persons: husband and wife on title, husband's father on title, and four children.

RD = $16,800

Husband and wife choose to separate. The husband's father will relocate with him, which requires a one-bedroom replacement property. The wife will relocate with the 4 children, which requires a 3-bedroom replacement property. The husband and wife agree to split the RD and the FMS in half. The husband will be entitled to one-half of the RD if he rents a one-bedroom for at least $425/month. With the added utilities of $50 (one-half of the estimated $100), he will be entitled to $8,400. The wife must spend at least $425/month (plus utilities) on a 3-bedroom DS&S replacement property to be entitled to one-half of the Rent Differential.

Separated or divorced displacees may agree to divide moving costs differently than their RHPs. All RHPs, however, must be based on the same percentage division. For instance, the parties may agree on a 90%-10% division of moving costs and a 50%-50% split of RHP payments. However, they cannot agree that one party may receive 70% of the PD and 10% of the IE.

Payments of moving expense can be based on actual costs or scheduled room-count method, but the two methods cannot be mixed. Payments are not made until all occupants have vacated the property except that partial payment can be made if denial will cause a hardship. The District has the option to issue a Notice to Vacate to any remaining occupants.

If the parties cannot reach agreement, entitlement is calculated as if they relocated together. Payment is determined by type of eligibility established by the first party to relocate and file a claim. Although only one party needs to sign the claim forms, checks must be payable to both individuals.

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EXAMPLE:

The tenants are eligible for moving expenses and may be eligible for either an RD or DP. If the first party to relocate elects a rental unit and files a claim for payment, the family maximum entitlement is based on this specific type of relocation. No other claim will be honored by the Region/District except where the initial claim was less than the maximum entitlement and the parties eventually reach agreement and file amended claims within the normal filing period.

If a divorce or separation occurs and one spouse vacates the property prior to the initiation of negotiations, the spouse who remains in occupancy is eligible for all relocation benefits that may accrue.

See Exhibit 10-EX-25.

10.04.31.00 Seasonal Residents

Persons owning or renting seasonal residences are generally not eligible for any relocation payments other than for moving expenses. A seasonal residence can be distinguished from a domicile in that a domicile is the place of a person's fixed, permanent home and principal establishment and to which place the person, when absent, has full intention of returning. The occupant of a seasonal residence could receive actual moving expenses or a fixed move payment, but is generally not eligible for RHPs.

10.04.32.00 Subsequent Occupants

A subsequent occupant is a residential occupant(s) that moved into the property after initiation of negotiations. Subsequent occupants must be in occupancy on the day the Department obtains control of the property (close of escrow, effective order of possession, effective right of entry) in order to receive monetary benefits.

Even though these occupants are not eligible for relocation benefits until the Department has control, the RAP Agent should provide the potential displacees with a Notice of Eligibility - Subsequent Occupants (10-EX-41) that states they must remain in occupancy until the Department has control or they will not be entitled to relocation assistance payments. The RAP Agent must also provide a 90-Day Information Notice but without addresses of comparable properties, since their eligibility for relocation assistance payments has not yet been established. At the first meeting with the potential displacees, the RAP Agent can obtain preliminary information that will help in

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determining possible relocation payments. Such information may include legal residency, income, household numbers, and/or functional needs. The RAP Agent must verify all information on the date the Department obtains control prior to providing any entitlements.

In addition to the Conditional Entitlement Letter for Subsequent Occupants (10-EX-42), the RAP Agent must provide the subsequent occupants with a 30-Day Notice to Vacate with addresses of comparable replacement property.

10.04.33.00 Personal Property Only [49 CFR 24.301(e)]

49 CFR 24.301(e) allows for the reimbursement of eligible expenses for a person who is required to move personal property from real property, but is not required to move from a dwelling. Eligible expenses include those described under Transportation, Packing, Disconnecting, Storage, and Insurance (including replacement value). Residents may also be reimbursed in accordance with the provisions outlined under Low Value/High Bulk (10.05.05.14) if the occupants were not required to move from the site. RAP Agents will provide displacees with the Notice of Eligibility for Personal Property Only (10-EX-46).

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RESIDENTIAL DEFINITIONS

- Dwelling [49 CFR 24.2(a)(10)]: 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.

- Mortgage [49 CFR 24.2(a)(18)]: Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which real property is located, together with the credit instruments, if any, secured thereby.

- Owner of a Dwelling [49 CFR 24.2(a)(20)]: A person is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property:
    1) Fee title, a life estate, a land contract, a 99-year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition; or
    2) An interest in a cooperative housing project which includes the right to occupy a dwelling; or
    3) A contract to purchase any of the interests or estates described in Subparagraphs (p)(1) or (2) of this section; or
    4) Any other interest, including a partial interest, which in the judgment of the Agency warrants consideration as ownership.

- Person [49 CFR 24.2(a)(21)]: Any individual, family, partnership, corporation, or association.

- Tenant [49 CFR 24.2(a)(26)]: A person who has the temporary use and occupancy of real property owned by another.

- Life Estate: A person who holds a life estate has the right to occupy a property for life. Many times, a life estate is retained by a person who has been granted such right by a grantor or who conveys the remainder interest to another person. The computed RHP may depend upon distribution of the acquisition payment in accordance with state law, but should be sufficient to enable the displaced person to relocate as an owner with an interest at least equivalent to the interest held prior to the acquisition of the property. The payment computation will be based on the total amount of the acquisition payment for a dwelling comparable to the acquired dwelling.

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10.05.00.00 - MOVING AND RELATED EXPENSES - NONRESIDENTIAL (BUSINESS, FARMS, AND NONPROFIT ORGANIZATIONS)

10.05.01.00 Relocation Benefits

Any business, farm operation, or nonprofit organization (nonresidential) which qualifies as a displacee [49 CFR 24.2(a)(9)] is entitled to relocation benefits if the acquisition of the property in whole or part causes a need to relocate the operation and/or personalty to another location. Relocation can be to the remaining portion of the property if a partial acquisition has occurred. (See 10.05.13.01: Reestablishment payments for moves to the remainder.)

Relocation benefits are limited to advisory assistance and payments for actual moving and related expenses as the Department determines to be reasonable and necessary. The majority of this section describes the specific moving entitlements.

The Uniform Act does not require that nonresidential displacees be made whole and thus they receive fewer benefits under the Uniform Act than residential displacees. Payments are limited to just moving and related expenses, with no provision to assist in acquiring a replacement property (similar to the residential RHP). However, nonresidential displacees may qualify for a Reestablishment Payment to mitigate some of the expenses associated with establishing their operation at the new site (10.05.13.00).

10.05.01.01 Persons Not Lawfully Present in the United States

Moving expenses for an unincorporated business, farm, or nonprofit organization will be paid if an owner, manager, or operating officer certifies the other owners, signs the claim forms, and provides the necessary documentation for himself/herself. The sole owner of a business, farm, or nonprofit organization who cannot or will not certify as to their U.S. residency status is not entitled to any relocation benefits, including advisory assistance.

Any partnership that includes persons who cannot or will not certify as to their U.S. residency status is not entitled to any relocation benefits, including advisory assistance. The remaining partners are entitled to moving expenses,

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but the payments must be prorated based on the number of U.S. versus non-U.S. residents. Example: A partnership of five (5) persons, two (2) of whom can certify as to their U.S. residency status, will receive 2/5ths of the actual, reasonable, and necessary expenses. This proration must be applied to all moving expenses, including reestablishment, search expenses, and the in-lieu payment.

Moving expenses for an incorporated business will be paid if the corporation certifies that it is authorized to conduct business within the U.S.

10.05.02.00 Relocation Planning

49 CFR 24.205(c)(2)(i)(A-F) requires each business be interviewed by the RAP Agent prior to the ION. After the RAP Senior receives the Parcel Occupancy Data Sheet and assigns the file, the RAP Agent will schedule an interview with each business that has received a Notice of Intent to Appraise (or similar document). The RAP Agent will also interview each business lessee identified on the Parcel Occupancy Data Sheet. To increase the effectiveness of the interview, the RAP Agent may accompany the appraiser during the initial and/or subsequent inspections. RAP Agents may use the "Nonresidential Interview Checklist" (10-EX-35) issued January 13, 2005 as the basis for the interview. The purpose of each interview is to:

1. Determine the relocation needs and preferences of each business entity to be displaced such as:
   - Replacement site requirements.
   - Current lease terms and other contractual obligations. Note: This information may have already been obtained by the appraiser, so the RAP Agent should check with the appraiser first before asking for additional copies from the lessee. However, the RAP Agent can certainly obtain clarification or additional information, if needed, and share the same with the appraiser.
   - Financial capacity of the business to accomplish the move. This will help identify any advance relocation payments required for the move. Note: HQ must approve advance moving payments.
   - Professional services required to assist in planning the move, assist in the actual move, and reinstall machinery and/or other personal property.
2. Explain the relocation assistance program, ensuring the occupant understands that they must still be in occupancy at the ION in order to receive any benefits.

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3. Identify and resolve personalty and realty issues, working closely with the appraiser to ensure that the FMV includes the contributory value of all fixtures, and that there is a separate M&E appraisal as appropriate.
4. Estimate the time required for the business to vacate so that the displacee's operation has limited downtime, and the move is phased in segments to reduce loss of income.
5. Estimate the anticipated difficulty in locating a replacement property.

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SUGGESTED INFORMATION TO BE OBTAINED DURING A BUSINESS INTERVIEW:

1. What is the type and general characteristics of the business displacee?
    - Manufacturing: What type of product? What is the source of materials?
    - Wholesale: What is the product mix? What are the transportation requirements?
    - Retail: What is the type of business? Does it have a specialty clientele?
    - Service Business: What is the service? Who are the clientele? What is the competition?
    - Ownership/Structure - Sole proprietorship, family business, partnership, corporation or institution?
2. General Information:
    - Employment: How many employees?
    - Number of years in operation?
    - How long at current location?
    - Other locations?
    - Amount of payroll?
    - Amount of gross sales?
3. Issues related to the replacement site:
    - Facility: Parking, zoning, building type, special building requirements, taxes, utility requirements.
    - Preferences of owner: Location, price, terms, future expansion capability.
    - Other considerations: Street accessibility for walk-in trade or delivery, rail access, access to specialized utilities (high consumption, large disposal requirements), landscaping, structural capacity, traffic requirements.
4. Other issues to be discussed during the interview process:
    - Do you anticipate losses created by interruption of the business? If so, how can we mitigate?
    - Can the move be phased to minimize hardships and reduce downtime?
    - Do you anticipate costs to adapt a new location to your current requirements?
    - What other increased costs are anticipated, such as taxes, insurance, utilities, transportation, etc.?
    - What are the anticipated problems with zoning and licensing at a replacement location?

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10.05.03.00 First RAP Call

A nonresidential displacee, owner, or lessee is entitled to the same information in the same time frame as the residential displacee. An explanation of benefits to an owner must be made at the First Written Offer, and within 14 days to a tenant/lessee. In addition to the Occupancy Certification (RW 10-25), the RAP Agent must obtain a Certification of U.S. Residency (RW 10-44).

During the first call, the RAP Agent must look at all personal property on the displacement parcel and request a certified inventory of these items from the displacee. The Agent should note in the diary the general nature of the operation and the type of personalty. The Agent should review the Appraisal and the Right of Way Contract to determine which items are being treated as realty and which items are personalty.

10.05.04.00 Advisory Assistance

49 CFR 24.205(c)(2) requires that a minimum level of advisory assistance (AA) be provided to a nonresidential displacee from the time the appraiser inspects the displacement property until the displacee is completely relocated and reimbursed all eligible expenses. AA includes the following:

a. Determine Need: The RAP Agent should obtain enough information about the nonresidential displacee's operation to determine the type of relocation assistance that it will need to resume operations at the new site, such as zoning requirements, licensing requirements, environmental restrictions, type of site improvements needed, and the appropriate time frame and timing to relocate. An on-site inspection and an interview with the nonresidential displacee are the best way to obtain the information on the requirements it will have to relocate to the replacement site.

b. Provide current and continuing information: The RAP Agent should provide the nonresidential displacee with possible addresses of replacement sites that will accommodate their operation based on their needs as determined in item a. The RAP Agent should obtain feedback from the displacee for each replacement site offered to ensure that the information provided meets the needs of the displacee. In addition, the information should be updated and revised based on changes in the market and need expressed by the displacee's feedback. Referral to a real estate broker does not satisfy the requirement that the RAP Agent continuously work with the displacee

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to provide information on replacement sites. The RAP Agent has an obligation to keep in close contact with the displacee during the entire relocation process even if the nonresidential displacee does not immediately accept the offer of assistance at the First RAP Call.

c. Minimize hardship: The RAP Agent has a responsibility to work closely with the nonresidential displacee to minimize the hardships of relocating to a replacement site. The nonresidential displacee who relocates may experience a decrease in operations due to downtime or limited hours during its search for a replacement site, or during the actual move and reestablishment at the replacement site. This downtime may also impact employees' hours and service level to customers. The RAP Agent can mitigate some of the hardships by obtaining accurate information on the moving options, requesting bids from qualified moving companies and specialized contractors, being on site when moving companies are preparing estimates, and monitoring the move at the displacement and replacement sites. The RAP Agent is obligated to provide ongoing advice relative to planning the move, explaining various methods to accomplish more specific objectives and help with resolving encountered problems.

d. Research and supply compatible aid programs that could be of benefit: The RAP Agent should maintain a current list of services that are available to nonresidential displacees such as Small Business Administration (SBA), Service Corps of Retired Executives (SCORE), California Minority and Women Business Enterprise (M/WBE), Department of Housing and Urban Development (HUD), Farmers Home Administration (FHA), local Chamber of Commerce, local development commissions and property management firms, as well as lists of specialized moving companies and professional moving consultants that can be of use to the displacee. The RAP Agent should explore all possible sources of relocation planning, counseling, and financing that may be utilized by the displacee. Local officials should also be encouraged to provide incentives for the displacee to relocate within the community, if only to avoid adverse economic impacts due to a loss of jobs and a corresponding increase in unemployment. Local agencies can provide incentives such as being flexible with zoning and building requirements, offering tax abatements or special financing, or waiving Conditional Use Permit fees.

The ability to assist a nonresidential displacee depends on the RAP Agent's knowledge of the business, how it functions and what it requires to be successful. As such, RAP Agents should devote a considerable amount of

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time to meeting with the nonresidential displacee and obtaining a thorough knowledge of the operation.

The Relocation Assistance Brochure is a good tool for guiding discussion during the First RAP Call and subsequent meetings. In addition, the Notice of Eligibility provides written reinforcement of the explanation of benefits and level of advisory assistance. The RAP Agent must specifically point out to the nonresidential displacee the mandatory notification of the displacee's obligation to provide an inventory and permit monitoring of the move as noted in 49 CFR 24.301(i).

10.05.05.00 Moving Expenses - Eligible

The following sections outline various eligible moving expenses as provided for by 49 CFR 24.301 and 49 CFR 24.303.

10.05.05.01 Transportation of Personal Property

Eligible displacees are entitled to the cost to transport personal property and other items of personalty not acquired (e.g., trade fixtures, inventory) to the replacement property, not to exceed 50 miles from the displacement property. The Department may extend the 50-mile limit if no other replacement property was available or suitable for the displaced business, farm, or nonprofit organization.

Transportation includes packing, unpacking, crating, and uncrating, including any special packaging or equipment that must be used to protect sensitive or high valued items (e.g., computers, rare or exotic inventory, and photosensitive equipment).

The displacee executes the agreement with the moving company, vendor or specialist, and may assign reimbursement for the preapproved amount directly to the moving company, vendor or specialist. The Department does not enter into the agreement between the two parties.

10.05.05.02 Disconnecting/Dismantling

Displacees may also be entitled to the cost to move all non-acquired personalty which also includes disconnecting, dismantling, removing, reassembling, and reinstalling personal property. This includes movable machinery, equipment, substitute personal property (not loss of tangible personal property), and connections to utilities available within the building.

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10.05.05.03 Utility and Service Lines

Another possible moving expense is the cost of connection to available nearby utilities from the right of way to improvements at the replacement site. Utilities may include the following internal service lines: water, gas, electrical, compressed air, vacuum, vent, sewer, and oil. They may be located overhead, underground, or on the surface.

The cost of installing the typical service connections is not an allowable expense such as: utility distribution centers (water meters, gas meters, and main electrical service panels), perimeter and overhead electrical outlets for lighting and power, normal gas or water lines. From a RAP viewpoint, these in-place service connections are real property improvements and the values associated with them become part of the real estate. Again, these costs become part of the real estate and are not allowable moving expenses. They may be eligible, however, as a reestablishment expense up to $25,000.

An eligible business or farm is entitled to reimbursement of costs for reinstalling movable machinery and equipment (M&E) and other personal property, including substitute personal property described in 49 CFR 24.301(g)(16). This includes connection to utilities available nearby and modifications necessary to adapt the utilities at the replacement site to the personal property.

From a relocation standpoint, the Department can pay the cost to connect or hook up any item of M&E or other personal property from the piece of equipment to the nearest available utility connection, but only to the extent these services were required at the displacement property. This connection might be an outlet located nearby or a subpanel located some distance away that is necessary for a particular piece of equipment necessary to the business. The Department can only pay to connect M&E and other personal property (or substitute personal property as noted above) the Department is paying to relocate. All such costs must be actual and reasonable. Items acquired by the State and subsequently repurchased by the displaced business and realty items retained by the owner as specified in the Right of Way Contract are not eligible relocation expenses. The Department will also not pay to connect any newly added items of M&E, other personal property, or for any betterments.

The cost to adapt or convert relocated M&E to a different type of power supply may also be an allowable moving expense. Examples of alternative power supplies include conversion from direct current to alternating current, from three (3)-phase to single-phase, from 440 volts to 220 volts, or from one heat source to another (e.g., from bottled or natural gas to electricity).

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Examples of ways to adapt either the M&E or the power supply include new motors, transformers, rectifiers, and similar equipment necessary to accomplish the required conversion. Except in unusual circumstances, actual payment shall be limited to the least expensive alternative; that is, the cost to adapt the M&E to available utilities or to provide compatible utilities to the existing M&E.

10.05.05.04 Telephone Equipment

Businesses may be reimbursed for the following telephone service fees/costs if incurred in the relocation process:

- Reconnection of Existing System
- Purchase of New System (if old system was pulse type and relocation site only accepts Touch-Tone phones)
- Long Distance Service Transfer Fees
- Computer and Data Dedicated Lines

If a business is able to relocate its existing system to its new location but chooses to purchase/lease a more elaborate system, a credit for phone relocation costs is provided toward the new system.

If a new system is the only alternative for the business, the RAP Agent should obtain two bids to document the reasonableness of the charges. In all cases, the file shall include a description of the existing phone system including:

- Number of phones, regular dial, multi-line, push button, PB + Hold, PBX.
- Special features such as hold, call forward, and conference calls.
- Names of local and long distance companies and representatives, if assigned.

Telecommunications (data) and tele-video installations require special handling and should be separately inventoried and documented.

10.05.05.05 Modifications to Personal Property

49 CFR 24.301(g)(3) allows reimbursement for actual, reasonable and necessary expenses to modify personal property to comply with federal, state, or local law, code or ordinance. Modifications necessary to adapt personal property to the replacement structure, the replacement site, or the utilities at the replacement site are also authorized. Additionally, connection to available nearby utilities from the right of way line to the improvements at

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the replacement site may be allowed, if the RAP Senior determines they are actual, reasonable and necessary (49 CFR 24.303).

Displacees may be reimbursed for the cost of adapting personal property to the replacement structure, the replacement site, or the utilities at the replacement site. To be reimbursable, costs for personal property modifications must be necessary, unavoidable, and reasonable.

The modifications authorized by this section must be clearly and directly associated with the reinstallation of the personal property, and cannot be for general repairs or upgrading of equipment because of the personal choice of the displacee.

Costs for repairs, modifications, or improvements to the replacement real property due to the requirements of laws, codes, or ordinances can only be paid as a Reestablishment Expense.

Authorized modifications include circumstances when personal property and equipment were "grandfathered" in the displacement structure, but changes or upgrading of the personalty is required by the Americans with Disabilities Act (ADA) and/or the Occupational Safety and Health Administration (OSHA).

The modifications must be clearly and directly associated with the reinstallation of the personal property and cannot be for general repairs or upgrading of equipment because of the personal choice of the business owner.

10.05.05.06 Physical Changes at New Location

Displacee may be reimbursed the cost of making physical changes in or to a building to which a business concern relocates.

Provisions and Limitations: Displacee may be eligible for reimbursement of costs to make physical changes at a new location as a moving expense under the following provisions and limitations:

- The physical changes must be necessary to permit the reinstallation of machinery or equipment or substitute machinery or equipment necessary for continued operation of the business.
- The cost of foundations and concrete pads or other similar construction required for reinstallation of relocated or substitute machinery or equipment may be eligible provided construction is necessary for proper

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operation of the equipment and compensation for a similar installation was not made as part of the price paid to acquire the former property.
- Changes in or to a building or structure may not increase the value of the building or structure for general purpose uses, may not increase the structural or mechanical capacity of the building or its components beyond the requirements of specific types of equipment moved from the old location or replaced with a substitute. No relocation payment for structural change shall be made for any items that were paid for on the acquired property.

Items acquired by the Department but repurchased by displacee and realty items contractually retained are not eligible for payment.

Claiming Costs for Physical Changes: To qualify for reimbursement, the displaced business must submit the following documentation before the move:

- A detailed description or drawing of the old and new installation.
- A copy of all instructions given to the contractors.
- A statement explaining why the physical change is necessary and applicable codes and ordinances, if any.

The RAP Agent will:

- Review the documentation and determine whether the physical changes meet the requirements set forth above and whether the costs are reasonable.
- Ensure the Department has not previously paid for the items in the acquisition.

FHWA has provided specific guidance on three specific areas related to changes at the new location.

1. The cost of pits, pads, and foundations can be reimbursed as an eligible moving cost if they are necessary for the reinstallation of equipment or machinery or the installation of substitute items that are necessary for the business operation, unless the value of the pits, pads, and foundations was clearly included in the just compensation paid for the real property. Normally, pits, pads, and foundations only add value to a property for particular business operation and would not generally enhance real property. They should not be included in the valuation of the real property unless the highest and best use of the property being acquired is for the business operation for which it is being used, and the fair market value is determined on this basis.

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2. Underground tanks are generally considered realty and purchased as part of the real estate. However, if under State law, the tanks are considered to be personal property, site preparation costs necessary for the installation of the tanks could be considered an eligible moving expense. The site preparation would have to be necessary for reinstallation of the tanks (or substitute tanks), and the installed tanks would have to be required for the operation of the particular business being created.

10.05.05.07 Storage of Personal Property

A nonresidential displacee MAY be entitled to storage of the non-acquired personalty based on the Region/District RAP Senior's determination that is absolutely necessary in order to vacate the displacee for the project.

49 CFR 24 specifically excludes personal property on real property already owned or leased by the displaced person, so a displacee cannot be reimbursed the cost to store personal property that was moved from the displacement property to another property already owned or leased by the displacee.

Storage of personalty is not an automatic benefit and should only be authorized when it is in the best interest of the public and the project. The RAP Senior must determine if the storage of personal property is a reasonable and necessary moving expense for the displacee. The determination should be based on the needs of the Region/District, the nature of the displacee's operation, the plans for permanent relocation, the amount of time available for the relocation process, and whether storage would facilitate relocation. It is the RAP Senior's responsibility to set the terms for storage, including prohibiting the storage site's use as a temporary business operating site and the length of time.

Examples of justifiable storage are:

- Displacee has diligently looked for replacement property, but has not been able to locate something because of the unique nature of their operation or organization.
- Construction of the replacement property has been delayed by some unforeseen circumstance, again not the result of the displacee's actions.
- The project's time schedule supports relocating the displacee's personalty immediately, AND the displacee's operation or organization will not be adversely impacted by the storage of their personalty.

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The displacee's storage must be preapproved by the RAP Senior based on the maximum period of time the displacee will need before permanent occupancy of the replacement property can take place, up to 12 months. Displacees are not automatically entitled to a full 12 months of storage.

Region/District may authorize a flat storage rate for the displacee's storage based on a market analysis of storage rates for comparable units. The displacee can be reimbursed at the end of the agreed-upon time period after submitting a claim, including invoices and paid receipts. An optional method of payment is for the displacee to execute an Assignment of Funds wherein the Region/District may advance the first and last month's storage rent to the Storage Facility, and make periodic payments (e.g., quarterly) for the agreed-upon time period.

All arrangements for storage should be documented in writing between the Region/District and the displacee, and if applicable, the storage facility.

Displacees are also entitled to the actual, reasonable, and necessary costs to move their personalty into and out of storage, up to 50 miles for each move (including necessary unloading and stacking). The Region/District is only responsible to move the same amount (or less) of inventory out of storage to the replacement site. The displacee must be advised to control their inventory (volume, weight) during the period of storage, or be responsible for the cost to move the additional items.

In unusual circumstances (e.g., displacee's inventory consists of 20 tractor trailers), the market rate analysis for a storage site may consider vacant lots, empty warehouses, or other secure sites.

Extensions beyond 12 months should be rare and only when the displacee's circumstances are so unusual that an additional month or two of storage is warranted.

10.05.05.08 Move and Storage Insurance

Displacees are entitled to insurance for the replacement value of the personalty in connection with the move and during storage.

In most situations, the displacee should elect to have the property insured based on its value rather than its weight. The moving company will provide an estimate of the replacement value, which should be confirmed with the displacee before electing that coverage. Special coverage may need to be

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obtained by the Department or the moving company for sensitive or high valued items of personalty (e.g., moving an antique company's Ming vases).

Direct payments to the displacee as a "self-move" (10.05.09.00) should be based on the lowest of three bids, including an appropriate amount for insurance. The RAP Agent should evaluate the potential risk to the personal property and select the appropriate coverage. A lower cost insurance with a higher deductible would be an appropriate choice when there is a low risk of property loss. Example: The personal property is being moved in seven separate moving vans. The likelihood that all seven moving vans would have 100% of the personal property damaged is highly unlikely. In most cases, the displacee will arrange for any additional coverage through their own insurance company. The Department is not responsible for the highest price coverage, just the most reasonable. However, if there is damage to the personal property and the insurance requires a deductible, the Department must reimburse the displacee for the deductible.

10.05.05.09 Lost, Stolen, or Damaged Property

The displacee is entitled to 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.

If the insurance coverage includes a deductible payment, the Department will be responsible for reimbursing the displacee for that amount after the claim for damages has been paid.

10.05.05.10 Licenses, Permits, Fees and Certifications

The displacee is entitled to the cost of any license, permit, or certification required for the particular business or organization to operate at the replacement location that is not transferable to the replacement property. These fees can be a one-time cost, or a periodic fee. Service charges or nonrefundable fees required by law, licenses, or permits needed to operate at the new location are eligible costs. Examples: day care license, alcohol and beverage control permit, resale license, sanitary inspection certification.

There are no limitations on the costs, which can be reimbursed for licenses, permits, or certifications required of the displacee at the replacement site. The costs participated in should be for those "actual, reasonable, and necessary" items charged by the licensing agency. However, the payment is

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based on the remaining useful life of the existing license, permit, or certification.

Example 1: A business is displaced from Local Agency "A" and moves to Local Agency "B." Local Agency "A" had no permit requirement at the displacement location. At the replacement location, Local Agency "B" requires a permit costing $1,000. The Department would reimburse the entire $1,000.

Example 2: A business is displaced from Local Agency "A" and moves to Local Agency "B." Local Agency "A" required the displacee to have a business license costing $750 each year. Local Agency "B" charges a slightly higher fee ($1,000) for their annual business license, but also requires a solid waste permit that costs $1,200 each year. If the nonresidential displacee moved on July 1, 2011, reimbursement would be based on one-half of the $1,000 to be paid for 2011 to Local Agency "B," plus the entire cost of the new solid waste permit that was not required at the displacement site.

Other eligible expenses are those costs previously paid as part of the Reestablishment Payment that related to the replacement site such as general occupancy licenses, occupancy permits, building permits, or one-time assessments (e.g., Conditional Use Permits) that any business would have to pay for occupancy of a property.

Impact fees or one-time assessments for anticipated heavy utility usage as determined by the Department is now an eligible moving expense rather than a reestablishment expense (49 CFR 24.303).

10.05.05.11 Professional Services [49 CFR 24.301(g)(12)]

Nonresidential displacees may be eligible for reimbursement to hire professional consultants to:

- Plan the move of the personal property (e.g., schematics, time frame)
- Move the personal property (e.g., organize and in phases), and
- Install the relocated personal property at the replacement location.

These services must be directly related to moving personal property. Conceptual building or site layouts intended for construction/reconstruction at the replacement site are not considered eligible expenses under 24.303(b).

Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business

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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 RAP Agent must establish a preapproved hourly rate based on reliable bids or estimates. If bids and estimates cannot be obtained, the RAP Agent may compare the rates of other similar professional providers in the area. Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation is an eligible expense. Professional services also include attorneys' fees for representation before zoning authorities, and the cost of obtaining a soil analysis necessary in the preparation of a replacement site. However, if any of the services identified under "professional services" are performed by a regular employee of the displacee (such as staff engineers) or professional contractors ordinarily used by the business for its everyday operations (such as legal counsel on retainer), these services (including the cost of the report or document) are considered ordinary costs of doing business, and are not eligible for reimbursement.

Professional services should be arranged for specialty or complex moves (e.g., sand and gravel plant, koi fish farm that are not normally performed by a typical moving company). The consultant should prepare specifications (10-EX-36) that are detailed instructions as to how the move is to be performed in order to minimize the hardships on the displacee, and to be present during each phase of the move.

The RAP Senior must preapprove the use of professional consultants, and require the displacee to obtain bids and Scopes of Work to plan and/or move the personalty to the replacement property. The RAP Senior should review the bids and authorize the displacee to hire the consultant with the lowest bid. As part of Advisory Assistance, the RAP Agent should conduct periodic reviews of the consultant's work to ensure the displacee is receiving adequate service.

The displacee enters into an agreement with the professional consultant, and may assign reimbursement for the preapproved amount directly to the professional consultant. The Department does not enter into the agreement between the two parties.

The use of a professional consultant does not absolve the RAP Agent from the need to monitor the move.

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10.05.05.12 Relettering and Reprinting

Displacee's existing inventory of stationery may become obsolete as a result of the move (e.g., new address, new phone number). Relettering signs and replacing stationery on hand at the time of displacement are eligible expenses. Other personalty items that may require changing the printed address or phone number are company vehicles, business cards, yellow page advertisement, and t-shirts or pens that are given to the public. The RAP Agent must determine if there is still some use to the items before authorizing reimbursement for relettering. It is important to note that the Department never confiscates obsolete items.

The displacee may be reimbursed the actual and reasonable cost to conform existing stationery by inking out and stamping in a new address, or the displacee may be entitled to the amount paid (less salvage value where appropriate) for printing a reasonable supply of printed matter to replace those made obsolete by the move. The RAP Agent and displacee should review the inventory on hand (estimating the amount that will be remaining on the date of the move) and reach an agreement on what stock must be modified, what must be replaced, and what can still be used at the new location (e.g., standard invoices, internal memos). The displacee should be advised that such an agreement should be reached prior to making any commitments with a printer for new stock.

10.05.05.13 Searching for a Replacement Location [49 CFR 24.301(g)(17)]

A displaced business, farm operation, or nonprofit organization is entitled to reimbursement for actual expenses, not to exceed the regulatory limit of $2,500, as the Department determines to be reasonable, which are incurred in searching for a replacement location including transportation, meals and lodging, time spent searching, and searching fees paid to a real estate professional. Other eligible expenses include the actual time and effort required to obtain permits and to attend zoning hearings, but not the assessed fees for the actual permits (see 10.05.05.10). The time spent to actually negotiate the purchase of a replacement business site is also reimbursable, based on a reasonable salary or earnings rate. However, the rate should be based on a preapproved hourly rate that is reasonable and necessary.

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The expenses incurred by the displacee and eligible for reimbursement must be:

- Incurred after the ION (FWO or NIA).
- For property that is suitable for the impacted business, not residential properties.
- Itemized on a statement attached to the claim form and incorporated by reference. The statement must list the dates of search chronologically, time spent, location of search, and reason for choosing or not choosing a location. (See 10-EX-2, Business Search Expense Summary.)
- Reimbursed at the current maximum State rates for mileage and per diem. Receipts are only required for lodging.

Time spent by the displacee and employees to locate a suitable replacement site can be reimbursed at the average hourly rate per a statement by the displacee. Broker and agent fees to locate a replacement site must be supported by paid receipts and copies of service agreements, and must be exclusive of any fees or commissions related to the purchase of such site. Commissions may not be reimbursable as part of the Related Nonresidential Eligible Expenses (10.05.11.00).

Reimbursement for mileage can only be for properties within the 50-mile radius, unless the Region/District determines that there are no suitable replacement properties within the 50-mile area. In such a case, search expenses and the actual move may be beyond 50 miles.

Displacees should document their time and expenses related to searching for a replacement site, and attach it to their claim.

Note: Search costs are not reimbursable to a business that elects to receive an in-lieu payment.

10.05.05.14 Low Value/High Bulk [49 CFR 24.301(g)(18)]

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 as determined by the RAP Senior, the allowable moving cost payment shall not exceed the lesser of:

1. The amount which would be received if the property were sold at the site, or
2. The replacement cost of a comparable quantity delivered to the new business location.

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Examples of personalty include stockpiled sand, gravel, minerals, metals, scrap, building supplies, automobiles and automotive parts, and other similar items held in bulk.

The business owner should be permitted to make the decision on whether the material is to be moved to the new business location or discarded in some other fashion (donate, on-site sale, disposal); however, the amount of the reimbursement will be limited to the lesser of the two amounts.

Note - This provision also applies to the relocation of "personal property only" for residential and nonresidential displacees.

Example of a Low Value/High Bulk Payment:

Atkins Hardware has a 500-gallon kerosene tank with a remaining content of 100 gallons. Each gallon of the kerosene sells retail at the time of displacement for $2.00. The cost to provide a truck, pump the tank contents, filter it for water and foreign debris, deliver it to the new location is estimated at $400.00, which is greater than the material's value (100 gallons x $2.00/gallon = $200.00). Delivering new kerosene to the new store location would cost about $1.45 per gallon for a 500-gallon delivery, and about $1.75 per gallon for a 100-gallon delivery. Comparing the remaining 100 gallons of kerosene were sold at the old site ($200.00) to the cost of 100 gallons delivered to the new site ($175.00), the Agent can pay the displacee $175.00, but only after the tanks have been removed from the displaced site.

10.05.05.15 Other Moving Expenses

49 CFR 24 allows the Department to reimburse eligible nonresidential displacees for other moving related expenses that are not listed as ineligible under 49 CFR 24.301(h). Headquarters R/W must preapprove any additional expenses based on a written recommendation from the R/DDC.

10.05.06.00 Certified Inventory

The nonresidential displacee must provide the RAP Agent with a certified inventory of the personal property eligible for relocation. The inventory should be prepared by the displacee and verified by the RAP Agent, who may choose to accompany the displacee during the preparation of the list. A complex operation (e.g., warehouse or auto parts distributor) may require the use of a professional consultant to prepare the inventory. The RAP Agent

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should arrange for this service to be performed and pay for the service using a claim form and Assignment of Funds.

The certified inventory must not contain any property classified as realty (and acquired), property on consignment, or real property items that were relocated in lieu of purchase (as reflected in the signed Right of Way Contract). The owner's certification shall contain a statement as follows:

> *I, (name of owner), certify that the above listed items represent a true and complete inventory of my personal property located at (address) as of (date).*

The RAP Agent should ensure that the owner understands this certification ensures that all the items are personal property, that the displacee has full ownership of the items, none of the items were acquired as part of the realty (e.g., fixtures and equipment), nor were any of the items reacquired by the owner at salvage value.

If personalty located on the displacement property is determined to be consignment goods, the owners of the consignment goods are considered displacees and thus eligible for relocation payments.

The certified inventory should be sufficiently detailed to allow ready identification of all items to be relocated. If an inventory is difficult to describe because of magnitude or complexity, consideration should be given to describing by gross weight, volume, or other reasonable measure, including photographs and videos where appropriate.

In addition, the certified inventory should not include any items that will not be moved and subject to reimbursement under "Adjustments to Move" (10.05.11.00) so that the RAP Agent can obtain an accurate cost to move.

Review 10-EX-32 for "Certified Inventory - Nonresidential."

10.05.06.01 Fluctuating Inventory

Inventories are rarely fixed and the RAP Agent should be aware of the nonresidential displacee's business activity in order to obtain accurate inventories for the bidding and moving processes. There are businesses whose inventory will change seasonally, or even daily. Subsequent to the actual move of a nonresidential displacee, the RAP Agent must review the inventory to establish what had to be moved. Substantial changes from the original or pre-move inventory should be addressed or reflect in an adjusted cost for the

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move. The inventory stage of the moving process is critical. Early and continuous involvement by the RAP Agent is essential.

The RAP Agent should also be aware of any inventory that belongs to someone other than the nonresidential displacee, such as items on hand for sale under consignment, i.e., convenience gas station, craft or hobby shop, secondhand store.

Due to the length of time between the first written offer and the actual relocation, the RAP Agent must obtain three complete inventories from the nonresidential displacee:

1. Within 30 days of the First RAP Call - in order to obtain accurate bids and provide the nonresidential displacee with a determination of the cost so that good business decisions can be made regarding when and how to move the personal property.
2. Within 30 days of the anticipated move - in order to ensure the lowest qualified bid is sufficient and not excessive to pay the cost to move the personal property that is expected to be on hand on the date of the move.
3. The day of the move - as part of the RAP Agent's responsibility to monitor the moving operation at the displacement and replacement sites.

The RAP Senior can waive the requirement to obtain three separate inventories for noncomplex operations with small inventories when the cost to obtain the inventories may exceed the minor variations in the moving cost.

10.05.06.02 Notification and Inspection [49 CFR 24.301(h)(12)(i)]

A nonresidential displacee must comply with certain requirements in order to receive reimbursement for all moving and related costs. The RAP Agent should ensure the displacee is aware of the restrictions and consequences by reviewing the Notice of Eligibility (10-EX-43), especially the conditions that state the displacee must:

1) Inform the RAP Agent with a minimum of 15 days' advance written notice of the approximate date of the start of the move or disposition of the personal property. Notification of the actual move date must be received at least three (3) working days in advance.
2) Permit the RAP Agent to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and

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to monitor the move. This includes photographs and videos as appropriate.

3) Provide the RAP Agent with a certified inventory of the items to be moved prior to obtaining cost estimates from moving companies, and again at least 15 days in advance of the estimated move date.

The RAP Senior may deny payment if displacee fails to comply with any of the above, noting in the diary and the file that the displacee was advised of the notification and monitoring requirements. However, if the displacee can produce verifiable records, bills, and receipts, documenting actual expenses incurred, and can identify the property moved, it may be difficult to support the denial based on the sole fact that the displacee did not notify the Region/District of the actual move date.

10.05.06.03 Monitoring

The Uniform Act requires that all moving expenses be actual, reasonable, and necessary. To assure compliance with these requirements, the RAP Agent must provide surveillance of a move commensurate with its costs. The goal of monitoring is to protect the Department's interest while assisting the nonresidential displacee.

The RAP Unit shall monitor complicated or costly moves to assure that all moving expenses are actual and reasonable and to verify that the items of personal property listed on the owner's certified inventory are moved from the displacement property to the replacement location. If the monitoring activities will involve a significant expenditure of time, the RAP Unit should consider using a resident engineer or private moving consultant.

See 10-EX-37 for additional guidelines on monitoring.

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10.05.07.00 Move by Commercial Carrier

Payment is based on actual reasonable cost of a move performed by a commercial mover or contractor. The following procedure shall be followed:

- Either the owner or the Agent will secure at least two firm bids (10.05.07.01) based on the certified inventory (10.05.06.00) from qualified carriers and submit them to the RAP Unit for approval prior to the move. The Agent should accompany the owner and the moving companies during the estimating process. The moving companies should be advised that the Department will pay for the move. Bids must contain the statement noted in Section 10.04.02.09, Actual Reasonable Cost of Move by For-Hire Carriers.
- After reviewing and approving the bids, the RAP Agent authorizes the displacee to employ the lowest responsible bidder to perform the move. The displacee may elect to use another mover, but the Department will limit reimbursement to the amount of the lowest bid, OR the amount of the displacee's mover, whichever is less.
- At its discretion, the RAP Unit may secure bids either as a service to the owner or where it questions the reasonableness of the bids submitted or qualifications of the bidder. A moving consultant may be used to evaluate bids for extremely complex commercial/industrial moves when the RAP Unit lacks the expertise to determine reasonableness of the bids.
- The owner shall submit Claim Form RW 10-30 and paid, receipted, and itemized bills to the District after moving from the premises. A responsible employee of the moving company must sign the bills. Written prearrangements or assignments for the Department to pay the mover directly may be used.
- The RAP Agent shall review and approve the bills. Payment of the authorized amount is in accordance with District delegations.

Displacee may authorize the RAP Unit to solicit competitive bids and enter into a contract on their behalf with the lowest responsible bidder to have the move performed. Payment is in accordance with current competitive bid procedures.

10.05.07.01 Obtaining Bids

A bid is an offer to perform a specific task at a specific price. It is a lump sum fixed amount to do an identified task. The Department does not solicit estimates to determine the cost to move personal property because they are generally a value or opinion of the cost without actually calculating costs

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based on weight or size. The RAP Agent should not accept open-ended bids such as time (hourly rate) and materials (price per item).

For a bid to be accurate, the terms of the move and the inventory must be clearly established. Special conditions related to the move, such as time of day, access to and through the building, dismantling and reassembly of complicated items, must be known by all the moving companies who have been tasked to prepare the bid.

Typically, the RAP Agent and the nonresidential displacee work together to select appropriate moving companies and specialists who will provide three bids to relocate the personal property. Each moving company is provided the certified inventory, moving specifications (see 10-EX-36) and afforded an opportunity to inspect the displacement and replacement sites. The moving companies submit the bids to the RAP Agent who will provide copies to the nonresidential displacee.

The RAP Agent determines the most qualified bid based on the cost and the accuracy of the bid. The nonresidential displacee can select any bidder, but the Department's obligation to participate in the costs will be limited to the selected bid.

Moving companies and contractors can also be reimbursed a reasonable fee for preparing the moving or cost estimates.

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10.05.07.02 Bid Adjustments

Complex moves are likely to require an adjustment to the work schedule or scope. These adjustments may require a change in the amount that the moving company should be paid; however, the RAP Agent must ensure that the adjustments are appropriate before agreeing to pay the moving company more than the bid.

Adjustments that are appropriate are those related to a change in the inventory that requires more or less time by the moving company. Adjustments that may be appropriate are those caused by bizarre circumstances that occur during the move such as a dramatic change in weather that requires more protection of the personal property such as tarps or covered vehicles, or a power outage that shuts down the elevator that is being used to move the personal property.

Adjustments that are not appropriate are those increased costs due to time and materials that should have been considered in the initial bid. Some examples are: narrow steps to depart the building that slow down the move, no loading docks which require renting forklifts or using more laborers. Also, normal business risks are those unforeseen circumstances that are not the fault of the mover, but do not justify an increase in cost to the agency such as a flat tire on the way to a move which causes an hour delay and forces the move into overtime. Anyone in business must accept a certain degree of risk and the business profit is the reward for dealing with these risks.

Sometimes, the delay is due to the nonresidential displacee's intentional or unintentional actions such as not providing immediate access to the personal property, or delaying the dismantling of a piece of equipment that is scheduled for move. The RAP Agent should discuss these issues with the RAP Senior before agreeing to pay the moving company more money because of the nonresidential displacee's actions. The moving company and the nonresidential displacee should have a written contract that protects both parties should one of them fail to perform. The Department does not enter into the agreements with the moving company and the nonresidential displacee, and should not pay additional costs due to the failure of either party to perform.

The RAP Agent should work closely with the moving companies that are providing bids to include the appropriate contingencies in the bids.

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Examples of appropriate and unwarranted adjustments:

1. The snowstorm hits at noon with heavy icing of the roads. To be on the safe side, the mover recalls the truck to the warehouse. Another half-day is added to the move.
    - Adjustment is warranted if the snowstorm is unusual (Sacramento in May); it is unwarranted if snow is a contingency that should have been considered when providing the bid.
2. Summer heat slows the work effort, and the packing and loading takes three hours longer than planned.
    - Adjustment is unwarranted, as this contingency should have been planned for.
3. The moving personnel forget the dollies and this causes a three-hour delay.
    - Adjustment is not warranted.
4. The nonresidential displacee shows the moving personnel a storage area omitted in the inventory.
    - Adjustment is warranted.
5. The moving firm is extremely busy and must send a less experienced work crew, so the move takes 25% longer.
    - Adjustment is not warranted as this is based on the moving company's business decision.
6. Chairs in the reception area are bolted to the floor, and the mover was not aware of this and sent no tools for removal.
    - Adjustment is warranted if it was not obvious the chairs were bolted during the bidding process, or that the chairs were to be dismantled before the movers came.
7. On the scheduled day of the move, heavy rain floods the loading dock areas. The carrying distance to the truck causes an increase in total loading time.
    - Adjustment is warranted.
8. The electrician informs you that he is not sure about the reinstallation of certain items of machinery. He suggests a manufacturer's technician to assist him. You point out that with this added cost, he will not be the low bid. He reminds you that he is in the middle of the move. Any delay in the move will be disastrous.
    - Adjustment is warranted.

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10.05.08.00 Self-Moves [49 CFR 24.301(d)(2)]

A Self-Move payment may be based on the lower of two bids or estimates prepared by a commercial mover or qualified RAP Agent. Low cost or uncomplicated moves may be based on a single bid or estimate, or

If the nonresidential displacee elects to take full responsibility for the move of the operation, the Region/District may pay the displacee directly for the moving expenses, based on the lower of two acceptable bids or estimates.

The nonresidential displacee must advise the RAP Agent of their desire to complete all or part of the move themselves at least 30 days before the anticipated date to vacate the property. The displacee must still provide a certified inventory, with a copy attached to the Self-Move Agreement.

The displacee will be paid once all personal property identified has been relocated to the replacement site. Advance payments are discouraged.

The displacee may opt to complete only a part of the move (e.g., moving the office and office equipment) and request the Region/District pay the actual costs to move the remaining property (e.g., inventory in the warehouse, including reassembly of the shelves/racks).

A Self-Move by the displacee does not negate the Region/District's responsibility to pay other related expenses, e.g., search costs, reestablishment, or professional services.

The nonresidential displacee should be advised that a Self-Move will be based on the lowest qualified bid adjusted for profit and overhead. As outlined in 49 CFR 24, Non-Regulatory Supplement 49 CFR 24D, the bid, which includes profit, overhead, or other additional costs that the nonresidential displacee would not actually incur, should be adjusted to reflect the actual expenses that the nonresidential displacee will incur.

10.05.08.01 Self-Move Based on the Lower of Two Bids

The displacee who elects to take full responsibility for the move may receive a payment for the moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the RAP Agent, or prepared by a qualified Agent. It may be necessary to obtain several types of bids to cover all aspects of the move (e.g., disassembly/reassembly of the specialized equipment, separate move for computer equipment). The amount of the Self-Move is generally based on the lower of two bids from

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qualified moving companies for each aspect of the move; however, uncomplicated or low cost moves can be based on one bid or estimate. The bids should reflect only the items on the certified inventory that the displacee has identified as personalty subject to the self-move. The total of the lowest of all the bids should be included in a Self-Move Agreement (10-EX-38).

The agreed-upon amount to be paid for a self-move should never include specialized moving costs that are performed by others; e.g., telephone, fire, and burglar alarm reinstallations. Costs for these specialized operations must be separately itemized and documented for reimbursement following completion of the work. (This does not apply to hardwired fire and burglar alarms since these are normally considered realty.)

The bidders should be advised to provide moving estimates exclusive of their charges for profit and overhead, and include the following statement:

> "This estimate was prepared for the State of California Relocation Assistance Program as a basis for determining the maximum reimbursement the displacee may receive to perform a "Self-Move."

The lowest bid is automatically used as the basis for the Self-Move Agreement. The hourly rate for equipment rental can be based on the actual cost of the equipment rental, but not exceed the cost a commercial mover would charge.

Moving companies and consultants can be reimbursed a reasonable fee for preparing the moving estimates.

A residential displacee cannot be paid for a Self-Move based on the lower of two bids or estimates.

10.05.09.00 Adjustments to the Move

There may be items of personalty that the displacee will not or cannot use at the replacement site. The displacee is entitled to the cost to move all personalty; but if the displacee decides not to move some of the personalty to the new location, there are two optional payments: Payment for Loss of Tangible Personal Property (if the item will not be replaced) OR Substitute Personal Property (if the item will be replaced). (See Table 10.05-A.)

The displacee must identify the items not to be moved on the certified inventory.

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This section should not be followed if the nonresidential displacee abandons personal property at the displacement property. (See Section 10.05.25.00.)

10.05.09.01 Loss of Tangible Personal Property [49 CFR 24.301(g)(14)]

Displaced businesses, farms, and nonprofit organizations may be eligible for a payment for the actual direct loss of tangible personal property, which is incurred as a result of the move or discontinuance of the operation. The payment will be based on the lesser of:

1. The fair market value of the item as installed and set up (e.g., wired, bolted, permitted) for continued use at the displacement site, less the proceeds from its sale; or
2. The estimated cost of moving and reconnecting the item "as is," including cost to install and obtain permits, based on the lowest acceptable bid or estimate obtained by the Region/District.

For the displacee to be eligible for this payment, the displacee must:

- Prepare a certified inventory identifying items that will not be moved, and whether it will be replaced at the new site.
- Identify the property NOT to be moved prior to the moving companies preparing their estimates to move all the items to the replacement property.
- Enter into a written agreement (10-EX-12) with the Region/District electing this method of payment and agreeing that the described personal property is not to be moved.
- Make a reasonable effort to sell the described personal property based on discussions with RAP Agent on any restrictions or limitations that must be followed.
- At the time of the move to the replacement property, dispose of the items listed in the inventory in a safe and legal manner (e.g., donation, refuse, sale, and gift). The Region/District is not responsible for removing these items from the displacement site.
- Submit a claim for reimbursement based on the lesser of the cost to move item "as is" or its fair market value "as is," along with all supporting documentation. Displacee may also submit a claim for reimbursement for costs related to the sale, or attempted sale, of the item, along with all supporting documentation. Note: Said claims cannot be paid until all other personal property has been removed from the displacement site.

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To determine the cost to move the item, the moving companies should be advised in advance by the RAP Agent that they will need to prepare TWO estimates—one for all the personal property, and then one for all the personal property EXCEPT the item or items that will not be moved. The difference between the two estimates is the cost to move the item. It is possible that the cost to move a small item, e.g., a desk or a couple of chairs, will be minimal or zero. (See Table 10.05-B.)

When calculating the approximate cost to move the item, the RAP Agent should ensure that the amount:

- Does not include an allowance for storage.
- Does include all other related moving costs such as packing, unpacking, dismantling, and reassembly, including utilities and modifications to the personalty.
- Is based on a maximum of 50 miles. Note: If the business or farm operation is discontinued, the moving cost will be based on the maximum of 50 miles.
- That the value of the goods held for resale is based on the cost to the business, and not the sales or listed price.

The owner of the property is entitled to payment for reasonable costs incurred in attempting to sell an item that is not being relocated (limited per 10.05.11.03). Payment may be made only after the owner has made a bona fide effort to sell the item, though the District RAP Senior can waive the requirement to sell. The sales price, if any, and the actual, reasonable costs of advertising and conducting the sale shall be supported by copies of the bill of sale or similar documents and any advertisements, offers to sell, auction records, and other items supporting the bona fide nature of the sale.

If the piece of equipment is operational at the acquired site, the estimated cost to reconnect the equipment shall be based on the cost to install the equipment as it currently exists, and shall not include the cost of code requirement betterments or upgrades that may apply at the replacement site. The allowable in-place value estimates (49 CFR 24.301(g)(1)(i) and the moving cost estimate (49 CFR 24.301(g)(14)(ii)) must reflect only the "as is" condition and installation of the item at the displacement site. The in-place value estimate may not include costs that reflect code or other requirements that were not in effect at the displacement site; or include installation costs of machinery or equipment that is not operable or not installed at the displacement site.

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Table 10.05-A
Differences between Loss of Tangible Personal Property AND Substitute Personal Property

Business is discontinued or the item will not be moved and is not replaced in the relocated business = LOSS OF TANGIBLE rules.	Payment is the lesser of: • Fair market value of the item for continued use at the displacement site minus the proceeds from its sale. • Estimated cost of moving the item, not to exceed 50 miles, with no allowance for storage. If the business is discontinued, the estimated cost is based on a moving distance of 50 miles.
Business is relocated and an item of personal property used as part of the business is not moved, but is promptly replaced with a substitute item at the replacement site = SUBSTITUTE rules.	Payment is the lesser of: • Cost of substitute item, including installation costs at replacement site, minus any proceeds from sale or trade-in of replaced item. • Estimated cost of moving and reinstalling the item, not to exceed 50 miles, with no allowance for storage.

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Table 10.05-B
EXAMPLE OF LOSS OF TANGIBLE PERSONAL PROPERTY

An eligible business, "J&J Temporary Services," determines that the document shredder will not be moved to the replacement site because of its condition and the displacee will not replace it at the new location.

Fair Market Value in Place of the Document Shredder based on its use at the current location	$1,500
Proceeds: Price received from selling the Document Shredder	-$ 500
Net Value	$1,000

OR

Estimated cost to move based on the following information: $ 150

The lowest move estimate for all the personal property - $5,000, compared to the same bidder's estimate to move all the personal property minus the document shredder - $4,900. The difference is only $100 because moving the shredder did not take a lot of extra time, effort or equipment on the mover's part, so the difference is minimal. Add the estimated cost for disassembly/reassembly based on an estimate from a document shredder service company - $50 to reset the machine at new location.

Based on the "lesser of," the amount of the "Loss of Tangible Personal Property" = **$ 150**

In addition, the displacee is entitled to the reimbursement for all reasonable costs incurred in selling the document shredder (e.g., a couple of flyers at used office equipment stores and an ad in the local paper for $50) based on supporting documentation.

The trade-in value of old equipment may be used instead of the net proceeds of the sale. Amounts received in trade, net proceeds of the sale, and estimated cost of moving must be documented.

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The displacee is not entitled to a payment for Loss of Tangible Personal Property for:

- M&E that is classified as realty but is retained by displacee, nor
- Cost of moving structures, improvements, or other real property of which the displacee reserves ownership.

10.05.09.02 Purchase of Substitute Personal Property [49 CFR 301(g)(16)]

If an item of personal property, which is used as part of the business, farm, or nonprofit organization, is not moved, but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displacee is entitled to payment of 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 lowest acceptable bid or estimate obtained by the Department for eligible moving and related expenses, including dismantling and reassembly, and code requirements, but with no allowance for storage.

Estimating the cost to move the item is calculated in the same manner as an item identified under the "Loss of Tangible Personal Property." See Table 10.05-C.

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Table 10.05-C
EXAMPLE OF SUBSTITUTE PROPERTY

An eligible business, "A&A Construction Company," determines the copy machine will not be moved to the new location because it is now obsolete, but it will be replaced.

Cost of a substitute Copying Machine including installation costs at the replacement site	$3,000
Trade-in Allowance	- $2,500
Net Value	$ 500

OR

Estimated cost to move, including any disassembly/reassembly, including code requirements	$ 550

Based on the "lesser of," the amount of the "Substitute Personal Property" =	**$ 500**

In addition, if the displacee had attempted to sell the copier before trading it in, there could be an additional reimbursement for all preapproved costs incurred in the attempt to sell it (e.g., $25 for advertising it at the "Used Office Equipment Are Us" store).

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WORKING WITH TANGIBLE PROPERTY LOSS and SUBSTITUTE PROPERTY:

The Maxtop Company has a large drill press that is personal property that is worth about $2,500 installed and about $1,500 if sold at an auction. A new drill press installed would cost the displacee $4,000, and the vendor would give the displacee a $1,200 credit to trade in the old drill press.

1. The large drill press is operational at the displacement site, and the displacee chooses to move the drill press. Cost to move is based on the cost to haul ($200), cost to take down including water and electrical disconnects ($180), set up with all utilities and floor mounting ($250), and the cost of a required enhanced personal safety barrier at the new location ($400). Total payment = $1,030.

2. The large drill press will not be needed at the replacement site and the displacee wants a "loss of tangible personal property payment." Displacee can sell it for $400. The payment is based on the lesser of: 1) The in-place value less sale ($2,500 - $400 = $2,100), or 2) the moving cost without the cost to modify the replacement property ($1,030 - $400 = $630). Total payment = $630.

3. The displacee has another drill press in storage that is not currently functional and does not want to move it. The payment is based on the lesser of: 1) the in-place value as is ($1,500), or 2) the moving cost without reconnect since it is in storage and not connected to utilities ($200). Total payment = $200.

4. The displacee needs to have a drill press at the replacement site but wants to update his operation and requests a payment based on "substitute property." The payment is based on lesser of: 1) cost of a new drill press including installation minus trade-in value ($4,000 - $1,200 = $2,800), or 2) the cost to move including installation ($1,030). Total payment = $1,030.

10.05.09.03 Cost to Sell Personalty [49 CFR 24.301(g)(15)]

Reimbursement for costs associated with the sale, or attempted sale, of personalty not to be moved is an additional payment and not included in the "lesser of" calculation. However, reimbursement is limited to those costs that are "necessary." The RAP Agent and the displacee should discuss limitations to the method of sale. The cost for an auctioneer or an advertisement in the Wall Street Journal is not considered a reasonable expense when selling a low valued or easily disposed of item. The RAP Agent should ensure that the

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displacee understands that reimbursement is limited to the Region/District's determination of reasonableness.

10.05.09.04 Value in Place

The term "value in place as is for continued use" means the depreciated value of the item as it is installed at the displacement site as of the date of the acquisition. Generally, an item will be valued based on the current cost at the time as installed at the displacement site, and then depreciated to reflect the current condition and estimated remaining useful life. Standard professional personal property appraisal methods are acceptable. The in-place value "as is" condition may not include costs that reflect code or other requirements that were not actually in effect at the displacement site; or include installation costs for machinery or equipment that is not operated or not installed at the displacement site.

The estimated moving cost for an item is also to be limited to the "as is" condition of the item at the displacement site. Therefore, estimated reconnection costs may NOT include costs to meet code or other requirements that would be necessary to relocate the item to a replacement site. Since the item is claimed as a loss and is not to be relocated, allowable reconnect costs may only reflect an estimate of the cost that would be incurred to install the item as it currently exists at the displacement site. Also, the moving cost estimate may not include reconnect costs for an item that is not operable or installed at the displacement site.

10.05.10.00 Related Nonresidential Eligible Expenses [49 CFR 24.303]

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

1. Connection to available nearby utilities from the right of way to improvements at the replacement site (see 10.05.05.03).

2. Professional Services (see 10.05.05.11).

3. Impact fees or one-time assessment for anticipated heavy utility usage as determined by the Department (see 10.05.05.03).

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10.05.11.00 Personal Property Only [49 CFR 24.301(e)]

49 CFR 24.301(e) allows for the reimbursement of eligible expenses for a person who is required to move personal property from real property, but is not required to move from the site. Eligible expenses include those described under Transportation, Packing, Disconnecting, Storage, and Insurance (including replacement value), and Low Value/High Bulk (10.05.14.04). RAP Agents will provide displacees with the Notice of Eligibility for Personal Property Only (10-EX-46).

Personal property moves do not trigger eligibility for reestablishment payments, nor are they eligible for actual moving expense payments under 49 CFR 24.301(g)(8) through (g)(17):

1. Disconnecting and reassembly of mobile homes. (10.07.02.00)
2. Refundable mobile home park fees. (10.07.02.00)
3. Licenses, permits, fees required at the replacement site. (10.05.04.10)
4. Professional services to plan the move. (10.05.04.11)
5. Relettering of signs and replacement of stationery. (10.05.04.12)
6. Loss of Tangible Personal Property/Substitute Property. (10.05.11.00)
7. Searching expenses. (10.05.04.13)

10.05.12.00 Items Not Eligible for Move

Items identified as realty (including trade fixtures) in the appraisal, even if retained by the owner at salvage value, are not eligible for moving. Machinery and equipment identified in the M&E appraisal is usually acquired by the Department and is also not eligible for moving expense.

However, items not acquired through the appraisal process are eligible for moving expenses.

Refundable security and utility deposits are ineligible for reimbursement [24.301(h)(12)] because of their refundable nature.

Refer to 7.08.06.08.

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10.05.12.01 Ineligible Moving and Related Expenses [49 CFR 24.301(h)]

A nonresidential displacee is not entitled to payment for:

a) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. However, this rule does not preclude the compensation under "Owner Retention of Dwellings."
b) Interest on a loan to cover moving expenses.
c) Loss of goodwill, loss of profits, or loss of trained employees.
d) Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in 10.05.21.00 (10).
e) Personal injury.
f) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Department.
g) Expenses for searching for a replacement dwelling.
h) Physical changes to the real property at the replacement location of a business or farm operation except as provided in 10.05.05.06.
i) Costs for storage of personal property on real property owned or leased by the displacee.
j) Home business that is not the primary site for the business (e.g., realtor or CPA who works at home but the company has a primary location, someone who makes craft items and sells them at other locations or on consignment, or telephone or Internet services and sales).

NOTE: If a business is legitimately operated out of a residence that will be relocated, then the relocation benefits should be adjusted to ensure there is no duplication of payment.

10.05.13.00 Reestablishment Expenses [49 CFR 24.304]

In addition to the payments available under this section for moving expenses, a small business (see definitions), farm, or nonprofit organization is entitled to receive a payment, not to exceed $25,000, for expenses actually incurred in relocating and reestablishing such small business, farm, or nonprofit organization at a replacement site.

The nonresidential displacee must completely vacate the displacement property and be operating the new operation at the replacement property before this payment can be made. The $25,000 cannot be advanced to the

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nonresidential displacee, even if the only qualifying payment is the increased costs of operation during the first two years (item 6 below).

There is no requirement that the displaced nonresidential displacee remain in the same or similar type of business when they reestablish.

The test for reestablishment expenses is not a comparative standard. Therefore, it does not match the amenities or characteristics of the replacement site against the displacement site. Instead, the test is one of necessity, i.e., is the expense necessary to reestablish the displaced business.

Reestablishment expenses must be actual, reasonable, and necessary. Eligible expenses include, but are not limited to, the following:

1) Repairs or improvements to the replacement real property as required by Federal, State, or local law, code, or ordinance.
2) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business. (Review ineligible items under 10.05.13.02 and 10.05.14.00.)
3) Construction and installation costs for exterior signing to advertise the business. (See 10.05.12.04.)
4) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting. Can include some costs that were ineligible under items (1) and (2) above. Improvements made for aesthetic purposes are not eligible for reimbursement under any provision.
5) Advertisement of replacement location (10.05.14.03).
6) Estimated increased costs of operation during the first two years at the replacement site for such items as:
    - Lease or rental charges,
    - Personal or real property taxes, and
    - Insurance premiums.

    In order to meet the 18-month deadline to file a claim, displacees should be advised to submit their claim for these expenses prior to the 24-month period based on projected costs.

    The nonresidential displacee must provide copies of documents (e.g., lease agreement, tax bill, insurance statement, utility costs) and proof of payment before the RAP Agent can determine if any or all of the Reestablishment payment can be made based on this eligible item.

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7) Other items that the Region/District may consider as necessary expenses related to the reestablishment of the business (e.g., escrow and title fees to acquire the replacement property, SBA loan fee, and ADA compliance).

When discussing the payment of claims under this provision, the RAP Agent should ensure the claimant fully understands that items claimed must be reasonable and necessary and that substantiating documentation must be attached to the Claim (RW 10-30). Refer to "FHWA Guidance on Reestablishment" for further guidance (10-EX-30).

The RAP Agent must provide the Acquisition Agent with a completed RW 10-38 whenever a Reestablishment Payment has been made.

Reimbursement of claims under this provision is not made to business owners or tenants that claim an in-lieu payment.

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 business and financial affairs are commingled;
3) The entities are held out to the public, and to those customarily dealing with them, as one business; and
4) The same person, or closely related persons own, control, or manage the affairs of the entities.

The RAP Agent should consider how the businesses share or separate their operation by looking at the name, purpose, customers, tax records, employees, licenses, permits, phone numbers, and office space.

10.05.13.01 Reestablishment Payments on the Remainder

Reestablishment payments can be paid to a business that must reconfigure or make modifications to the remainder in order to accommodate the displaced portion of the business. The RAP Agent must make sure the payments are based on the list of eligible reestablishment expenses, and are not a duplication of a portion of the acquisition payment that was based on cost to cure or damages.

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10.05.13.02 One-Time Advertisement of Replacement Location (Reestablishment)

The RAP Unit must determine the amount is reasonable and necessary for the business to retain current clients and must approve the amount before it is incurred.

An example of an approved claim is a one-time newspaper announcement that a hairdresser has moved from one beauty shop to another. Individual mailing of a one-time announcement to the individual customers may also be necessary. Another example is a lawn mower repair shop that does not regularly advertise in newspapers.

Reimbursement for eligible advertising expenses must be included in the total of reestablishment expenditures, limited to $25,000.

An unacceptable claim is one from a business that typically uses newspaper, radio, and television advertising on a regular basis. In these cases, a minor change in the business' regular ads can mention the new address.

10.05.13.03 Exterior Signing

Eligibility for this payment exists whether or not the business had a sign at the displacement property. However, some sign expense is more properly assigned as a moving cost. A sign designated as personal property at the displacement site is eligible to be moved and reinstalled as a moving expense. Signs that can be relettered or otherwise modified due to the move can be claimed as a moving expense. Erection of signs not eligible as a moving expense can generally be claimed as a reestablishment expense.

10.05.14.00 Reestablishment Expenses for Nonoccupant Owners

A small business, farm, or nonprofit organization, including a nonoccupant landlord, whose sole activity at the site is providing space at the site to others, is eligible for a Reestablishment Expense Payment up to $25,000. The owner does not have to own or rent personal property that must be moved in connection with the displacement. Typical examples of leased space are:

- Mobile Home Parks
- Business properties (e.g., warehouses, office space) including bare land used for storage of equipment

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- Farms and ranches (or any bare land used for agricultural or livestock grazing)
- Coin operated laundries or any other vending operation (newspapers)
- Residential units

A nonoccupant owner is not entitled to moving expenses because the requirements are that they have no personal property stored on the site. The sole reason and use for the property is to lease it to someone else. If a person leases a furnished place, they are not eligible for the Nonoccupant Owner payment.

Note: A landlord who leases furnished residential or nonresidential properties is not eligible for a Reestablishment Payment as a Nonoccupant Owner.

The RAP Agent should provide the Nonoccupant Owner with a Notice of Eligibility – Nonoccupant Owner Leasing Space to Others (10-EX-50) as soon as its eligibility is determined.

To be eligible for this payment, the displacee must establish that the renting or leasing of space is a bona fide business activity, and not part of a real estate investment or family situation, as supported by the displacee's income tax records (Schedule C).

To ensure the displacee's operation is in fact a business, the RAP Agent should obtain from displacee records that support the status as a business (e.g., copies of income tax records, business license, lease agreements, or any other reasonable documentation). The income from the property must contribute materially [49 CFR 24.2(a)(7)] to the owner's overall income. The definition of "contributes materially" is: during the two taxable years prior to the taxable year in which displacement occurs, or during such other period as the Region/District determines to be more equitable, a business or farm operation:

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

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To be eligible to receive the payment, the Nonoccupant Owner must:

- Not be part of a commercial establishment with three or more locations (e.g., franchise or chain operation).
- Acquire a replacement property within the 18-month time period.
- Lease the replacement property as evidenced by a copy of the new lease agreement.

Eligible expenses are those listed in Section 10.05.14.00 as Reestablishment.

The Nonoccupant can have more than one Reestablishment Payment if two distinct and separate properties are affected by the same project, as long as they are leased as separate entities (e.g., two buildings on one parcel that is leased to two separate lessees for different uses, and two rental units in a condominium complex that are separate and distinct residential units, leased to two separate families). However, one 32-unit apartment building is limited to one reestablishment payment. To receive more than one Reestablishment Payment, the owner must reestablish each operation.

FHWA has determined that the following situations or expenses are ineligible for a Nonoccupant Owner Reestablishment Payment:

- The replacement site cannot be a site that was previously owned or leased by the displacee.
- A lessee who subleases space is not eligible for a Reestablishment Payment.
- A request for reimbursement of expenses incurred by the displacee as a result of the Department acquiring the displacement property.
- Recurring fees (insurance, taxes, MIP, interest) and nonrecurring closing costs associated with the replacement property.
- Other items, such as incidental expenses necessary to purchase the replacement property, customarily paid by the buyer.

Note: The Nonoccupant Owner cannot receive an In-Lieu Payment (10.05.17.00) regardless of the determination of eligibility for a Reestablishment Payment under this provision.

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10.05.15.00 Ineligible Reestablishment Expenses [49 CFR 24.304(b)]

The following is a nonexclusive listing of reestablishment expenditures ineligible for reimbursement:

1) Purchase of capital assets, such as office furniture, filing cabinets, machinery or trade fixtures.
2) Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.
3) Interest on money borrowed to make the move or purchase the replacement property.
4) Payment to a part-time business in the home which does not contribute materially (10.05.26.00) to the household income.

Except as specifically stated under 24.304(a)(1)-(3), physical changes to the real property at the replacement property are not eligible for reimbursement. The RAP Agent must be extremely careful in reviewing and approving proposed capital improvements to the replacement property that are not specifically listed above (1), (2), and (3). New construction items, such as roofs, bathrooms, storage areas, do not qualify as a reimbursable expense because the cost will be recaptured when the improved property is sold. General construction items, such as repairs to the roof, electrical system, exterior structure, are also not reimbursable unless specifically related to the operation of the machinery and equipment. Improvements to leased properties can lead to a misuse of the Reestablishment payment if the $25,000 is spent on improvements the landlord should make in order to lease the site, or because of agreements the displacee may have for a lower lease rate if improvements are made to the property.

The cost of constructing a new business building on the vacant replacement property is considered a capital expense, and as provided in 49 CFR 24.304(b)(1) is generally ineligible for reimbursement as a reestablishment expense. In those rare cases when a business cannot relocate without construction of a replacement structure, HQ can request a waiver (49 CFR 24.7) from FHWA.

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10.05.16.00 Small Business In-Lieu Payment [49 CFR 24.305]

A small business displacee may be eligible to choose a fixed payment "in lieu" of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses provided by 49 CFR 24.303 and 24.304.

The In-Lieu Payment for a small business or farm is based on the average annual net earnings, and can range between $1,000 and $40,000.

The displaced business is eligible for the payment if:

1) The business owns or rents personal property, which must be moved in connection with such displacement and for which an expense would be incurred in such move; and the business vacates or relocates from its displacement property.
2) The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the Department, and which are under the same ownership and engaged in the same or similar business activities.
3) The business is not operated at a displacement dwelling solely for the purpose of renting the property (improvements and/or land) to others.
4) The business contributed materially (10.05.27.00) to the income of the displaced person during the two (2) taxable years prior to displacement.

49 CFR 24.305 states the business cannot be relocated without a substantial loss of its existing clientele or net earnings. The Region/District will assume that all displacees automatically meet this criterion if the other four criteria are met. (49 CFR 24, Non-Regulatory Supplement 24D #14, August 16, 1999.)

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 business and financial affairs are commingled;
3) The entities are held out to the public, and to those customarily dealing with them, as one business; and
4) The same person, or closely related persons own, control, or manage the affairs of the entities.

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The RAP Agent should consider how the businesses share or separate their operation by looking at the name, purpose, customers, tax records, employees, licenses, permits, phone numbers, and office space.

10.05.17.00 Farm Operation - In-Lieu [49 CFR 24.305(c)]

The In-Lieu Payment for a farm operation is not based on the same criteria, calculations, and limitations as a small business except that they must have personal property that must be relocated from the displacement property to another location (not on the remainder). The other requirements that do not apply are as follows:

1. Farms are not subject to the required loss of substantial patronage (though the Department assumes this occurs for all other nonresidential displacees).
2. Farms are not subject to the multiple location requirement.
3. Fixed payments to farms are limited to the operations at the displacement property.
4. Farms must contribute materially to the operator's support, thereby eliminating home or hobby operations.

In the case of a partial acquisition of land that was a farm operation before the acquisition, the fixed payment shall be made only if the Department determines that:

1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or
2) The partial acquisition caused a substantial change in the nature of the farm operation in that it is no longer the same operation (e.g., there was a dairy operation at the displacement property, and the nonresidential displacee is operating a petting zoo at the replacement site).

10.05.18.00 Nonprofit Organization - In-Lieu [49 CFR 24.305(d)]

The In-Lieu Payment for a nonprofit organization is based on the same criteria, calculations, and limitations as a small business, except that any payment in excess of $1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used for the payment is the average of two (2) years' annual gross revenues less administrative expenses.

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

The organization must have an exempt status with the State or Federal income tax office and must provide proof of its nonprofit status. It can obtain a certificate or other documentation from either the State of California Franchise Tax Board or the Internal Revenue Service.

10.05.19.00 Calculating the In-Lieu Payment [49 CFR 24.305(e)]

The In-Lieu Payment is based on average annual net earnings for the last two years. If an in-lieu payment is made, no payment may be made for search costs, reestablishment expenses, actual moving costs, or actual direct loss of tangible personal property. If a business, farm, or nonprofit organization elects to take and is reimbursed for moving costs and later qualifies for an in-lieu payment, the amount of moving expenses previously paid must be deducted from the in-lieu entitlement.

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 two (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 two (2) taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two (2) taxable years prior to displacement, projected to an annual rate. The displacee shall furnish the RAP Agent with proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence.

Average Annual Net Earnings - include any compensation the business (sole proprietor or partnership) paid to the owner, spouse, or dependents during the past two-year period. For a corporate owner of a business, earnings shall include any compensation paid to the spouse or dependents of the owner with an interest in the corporation. For the purpose of determining ownership,

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stocks held by a husband or wife and their dependent children shall be treated as one unit.

Compensation paid to the owner is not limited to wages and may include contributions the business makes to pension or profit sharing plans on the owner's behalf.

For any year that has a negative net income, including qualifying compensation (income) paid to the owners, the entitlement calculation will be based on zero for the year, rather than the negative amount.

10.05.19.01 Using Alternate Tax Years to Calculate an In-Lieu Payment

If the net income of a displaced business is very low in one or both years prior to displacement, the payment can be based on a different time period of two consecutive years when the RAP Senior determines it to be more equitable, but not earlier than two years prior to the ION on the project.

Examples when the tax periods preceding displacement are not representative of the average annual net earnings are:

- During the second year, there was a period of negative income due to unseasonably bad weather or a natural disaster.
- The displacee has only been in business for two years and the first year's income is not indicative of current operations, or the business has only been in operation for a short period of time (e.g., six months). In this case, the existing net earnings income data would be extrapolated and used to project what the net earnings could have been if the business had been in business for a full two years. If the business is seasonal, this fact should be taken into account in the computations.
- Capital improvements or investments were made of such magnitude that it distorts the net earnings.
- The proposed project has caused so many residents to leave the area that the business' net income declines.

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10.05.19.02 Documentation from Displacee

The owner must submit a request to have their In-Lieu Payment calculated along with supporting documentation. The RAP Agent should ensure the displacee understands this payment is "in lieu" of all other moving payments.

Certified copies of Tax Returns for the last two years should include the Schedule C (Profit or Loss from Business or Profession) and either Form 1040 (Individual Tax Return for the owner and each corporate officer), Form 1065 (Partnership Tax Return for each partner) or Form 1120 (Corporate Tax Return), as appropriate.

Business owners seeking use of the alternate tax year provision must provide information to support their contentions. They must provide tax returns for the alternate two-year period, the two tax years immediately preceding the year of displacement, and any intervening years that document the decline in net income.

10.05.19.03 Processing the Request

The RAP Agent shall process the displacee's request for an In-Lieu Payment as follows:

1) Reviews the displacee's request for validity, and requests additional documentation to determine eligibility.
2) If displacee is deemed ineligible, rejects the request in writing, stating the reason for rejection and advises displacee of their appeal rights.
3) If the request is adequate, calculates the average annual net earnings for the last two taxable years (10.05.18.00). Completes the claim (RW 10-30) entering the amount of the payment.
4) Personally delivers the completed claim to displacee with a letter showing amount to be paid. Advises displacee that payment will be made after the property has been vacated - and only if no other moving expenses are claimed.
5) Verify the property is vacant.
6) After displacee signs the claim, processes it for payment. Returns income tax returns to displacee.

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10.05.19.04 Computing Average Annual Net Earnings

Examples of how to calculate the "Average Annual Net Earnings" are calculated as shown:

EXAMPLE A:

2010	$15,000	Schedule C
	$11,000	Individual 1040*
	$26,000	
2009	- $11,000	Schedule C
	$10,000	Individual 1040*
	- $ 1,000	
	Adjusted to zero	
2008	$15,000	Schedule C
	$ 3,000	Individual 1040*
	$18,000	

*Salary paid to owner, their spouse, and dependent children added here.

The RAP Senior determines the income from 2009 is not indicative of a normal year and uses 2008 as an alternate year.

The average of 2010 ($26,000) and 2008 ($18,000) is $22,000. The maximum allowable payment is $40,000.

EXAMPLE B:

2010	- $15,000	Schedule C
	$16,000	Individual 1040*
	$ 1,000	
2009	- $11,000	Schedule C
	$10,000	Individual 1040*
	- $ 1,000	
2008	- $10,000	Schedule C
	$18,000	Individual 1040*
	$ 8,000	

The RAP Senior determines the income from 2010 and 2009 is representative of the business' operation, even though the income the owner received in 2010 is greater than the business' loss. The higher amount in 2008 is a result of the owner taking a greater draw and should not be used as an alternative tax year.

The average of 2010 ($1,000) and 2009 (-$1,000 which is converted to zero) is $500. The maximum allowable payment is $1,000.

* Income from business in question.

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10.05.20.00 No Duplication of Payments

Since Appraisal, Acquisition, and RAP are equally responsible for assuring that duplication of payments is avoided and that proper charges are made for Federal participation, a great deal of coordination among the functions is necessary. RAP Agents should be familiar with the Acquisition and Appraisal Chapters, which describe the duties assigned to the respective branches.

The RAP Agent must provide the Acquisition Agent with a completed RW 10-38 whenever an In-Lieu Payment has been made.

The subject of no duplicate payments may raise extremely complex issues. All explanations to displacees should be handled with care and caution since the potential for misunderstandings is extremely high.

10.05.21.00 Compensation for Loss of Goodwill

Goodwill is defined as the benefits that accrue to a business because of its location; reputation for dependability, skill or quality; and any other circumstances resulting in probable retention of old or acquisition of new patronage. Loss of Goodwill is paid as an acquisition expense, but some of the items considered in calculating a loss of goodwill may also be covered as a relocation expense. Therefore, the District must identify those cost elements of fixed moving costs (in-lieu payments), reestablishment expenses, and Loss of Goodwill payments that are paid, or would be paid, for the same purpose.

10.05.21.01 Loss of Goodwill Procedures

A business, farm, or nonprofit organization must be informed that relocation payments are offset against any other similar payment made for Loss of Goodwill.

The RAP Agent should be aware that:

- A goodwill appraisal might be made prior to State's first offer or at some later date.
- Displacee may be eligible for payment of moving and related expenses (10.05.05.00) and reestablishment expenses (10.05.13.00) or a fixed payment in lieu of these two payments (10.05.15.00).
- Moving and related expenses may not be offset against Loss of Goodwill payments.

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- Although the relocated parties generally must incur reestablishment costs before they are paid, some known costs, such as increased rent, may be paid prior to actual occurrence.
- If the Loss of Goodwill payment exceeds the in-lieu payment, displacee will only be eligible to receive compensation for Loss of Goodwill plus RAP payments for moving and related expenses.
- If a Loss of Goodwill payment has not been made and the payment to be made is less than the in-lieu payment, displacee has the option of receiving either the in-lieu payment or the Loss of Goodwill plus RAP payments for moving and related expenses and for reestablishment costs not included in the Loss of Goodwill payment.

The RAP Agent should carefully analyze proper and reasonable offset of RAP payments against Loss of Goodwill payments when a goodwill appraisal indicates a loss to the displaced business. The District must fully document all offsets in the parcel file.

10.05.22.00 Notices to Acquisition

A business in-lieu payment may be made prior to payment of a claim for loss of business goodwill. Immediately after approving an in-lieu payment, the RAP Unit notifies Acquisition of the amount of the in-lieu payment, using RW 10-38, "Notice to Acquisition of In-Lieu Payment or Reestablishment Expenses."

A Business Reestablishment (10.05.14.00) may contain items that could be included in the preparation of an appraisal for Loss of Goodwill, thus the possibility of duplication of payment exists when a Loss of Goodwill payment is made. If reestablishment costs are reimbursed prior to the Loss of Goodwill payment, the RAP Unit notifies Acquisition that a reestablishment payment has been made, using RW 10-38, "Notice to Acquisition of In-Lieu Payment or Reestablishment Expenses," with RW 10-30 attached. This notice is made immediately after the District approves the reestablishment expense for payment.

Close coordination between RAP and Acquisition during all phases of a nonresidential relocation is essential. The RAP Agent should check with the Acquisition Agent to see if any loss of business goodwill claims have been paid to avoid duplicate payments.

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10.05.23.00 Abandoned Personalty

If the nonresidential displacee abandons an item of personal property at the displacement site, the owner is not entitled to moving expenses or losses for the items involved. The displacee is not entitled to reimbursement for moving costs (including adjustments to move under 10.05.11.00) until all personal property has been removed from the displacement site. If property is abandoned, and the displacee will not remove it, then Property Management must be notified of the items and make arrangements for its disposal. The disposal costs cannot be deducted from the displacee's relocation benefits, nor can relocation benefits be denied for eligible expenses just because the displacee did not relocate all the personalty. See Property Management and/or Clearance and Demolition policies and procedures regarding disposal methods and recovering expenses from the owner.

10.05.24.00 Hazardous Material

The following guidelines may be used to relocate hazardous materials that are considered personal property because of their nature and/or containment:

- The costs of analyzing contents of containers prior to removal from the displacement site are reimbursable moving expenses if required by regulation or under the rules of the disposal facility. The analysis should be a reasonable and necessary prerequisite for the move.
- The cost of insuring the shipment is a reimbursable expense.
- Eligible reimbursable moving expenses include the cost of shipping these materials from the displacement site to the replacement site <u>or</u> to the nearest approved disposal site, at displacee's option. The 50-mile limit may be waived, if necessary, under the authority of 49 CFR 24.301(g)(1).
- Fees charged at the disposal site are not federally participating moving expenses. The generator of the hazardous material has a continuing responsibility with respect to future requirements that may arise in conjunction with its storage or treatment. Since this liability was not caused by the Department's acquisition of real property, costs incurred as a result are not considered reimbursable moving expenses. The payment of fees at the disposal site may be a problem for some displacees, and they may decide to abandon the hazardous material. If this is a possibility, the RAP Unit should contact HQ R/W as soon as possible.

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10.05.25.00 Grace Period on Business Property

The DDC-R/W can authorize grace periods to former owners or tenants of Department-acquired business properties in accordance with the following terms and conditions:

- Grace periods can be granted for an individual parcel, a portion of a project, or an entire project when businesses are undertaken in a market where replacements are difficult to find and orderly relocation creates a need to mitigate business disruption.
- Grace periods are normally a maximum of 60 days and may be shorter if warranted by circumstances.
- Displacees are not required to pay rent during the grace period if they have a commitment to pay rent on a replacement site and they have furnished proof of that obligation to the District.
- The District shall verify the need for the grace period. The need is often related to refurbishment, move time, or equipment installation. Or the need could be time oriented; e.g., a business might have a sales season during which relocation is impractical. A grace period that allows the owner to enter into a rental agreement on the replacement site, to be occupied later, may be justified.
- The specific time or dates of the grace period should be described in the Right of Way Contract or in Property Management's Rental Agreement.
- A business move grace period cannot be authorized on residential property even if the property is qualified for business in-lieu RAP payments.
- A grace period cannot be authorized on farms. Reduced rent or no rent policies on farmlands, granted or exchanged for other considerations (such as maintenance), are not affected by this business move policy.
- A grace period may be authorized on the business use portion of mixed-use properties. The displacee must pay reasonable rent on the nonbusiness portion.
- A grace period based on partial reductions may be used when appropriate. Partial reductions are applied if the business operator is moving to a place of business where rents are less than the existing State rental rate. (If State rent was $500 and replacement rent is $400, the State can allow a $400 per month grace on the State property.) Partial reductions could also be used if owner's move plan entails a phase-in period where the new and the old places of business are operated concurrently.
- Grace periods may be granted when a business owner acquires a site rather than leases. Time may be needed to close escrow, make modifications to the property, etc.

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The District may determine that no reduction is practical when both the replacement site and the State site are producing significant incomes.

The RAP Unit has primary responsibility for administration of the grace period. RAP verifies the dual rent condition of the business and solicits proof of and amount of rent on the replacement site.

The RAP Agent shall advise Property Management by monthly memoranda on the status of the grace period. The RAP Senior must approve those memos, copies of which are retained in the RAP file. The RAP Agent shall make every effort to ensure the grace period is not erroneously extended beyond the time limits of this policy. The RAP Agent shall also communicate with Property Management to the fullest extent about expected grace periods and amounts of rental rates to be covered.

When mixed property grace periods are considered, the RAP Agent consults with Property Management on proper distribution of total rent. Property Management's determination controls the mixed-use property rent proration.

10.05.26.00 Nonresidential Definitions

- Salvage Value [49 CFR 24.2(a)(23)]: The probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.

- Small Business [49 CFR 24.2(a)(24)]: A business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes receiving a reestablishment expense payment.

- Nonprofit Organization [49 CFR 24.2(a)(19)]: An organization that is incorporated under the applicable laws of a State as a nonprofit organization, and exempt from paying Federal income taxes under Section 501 of the Internal Revenue Code (26 U.S.C. 501).

- Contributes Materially [49 CFR 24.2(a)(7)]: During the two taxable years prior to the taxable year in which displacement occurs, or during such

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other period as the Region/District determines to be more equitable, a business or farm operation:

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

- Business [49 CFR 24.2(a)(4)]: Any lawful activity, except a farm operation, that is conducted primarily:
    1) For the purchase, sale, lease, and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or
    2) For the sale of services to the public; or
    3) As an outdoor advertising display, when the display must be moved as a result of the project; or
    4) By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.
- Farm Operation [49 CFR 24.2(a)(12)]: Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

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10.06.00.00 - REPLACEMENT HOUSING VALUATIONS

10.06.01.00 General [49 CFR 24.204(a)]

No residential displacee shall be required to move unless at least one, preferably three, comparable replacement dwelling has been made available.

49 CFR 24.204(b) guarantees that "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 in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible."

A comparable replacement dwelling will be considered to "have been made available" if the displacee has:

1) been informed, in writing, of its location (address), and the monetary entitlements available to help with the purchase or rental of the property.
2) sufficient time to negotiate and enter into a purchase agreement or lease for the property; and
3) been assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

The Department's obligation to provide replacement housing is met when comparable housing is made available to the displacee. The Department can then proceed to issue Notices to Vacate.

The displacee is advised of the address of the comparable replacement properties via the Conditional Entitlement Letter (10-EX-45 for 90-day owners and 10-EX-40 for 90-day occupants), the 90-Day Information Notice, the 30-Day Notice, and the 90-Day Notice.

Any available comparable used to determine a price/rental differential must be available at the listed price during the period displacee is actively seeking replacement housing. This period of active search ends when the earlier of the following dates occurs:

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- Displacee enters into a contract to purchase (acceptance of Deposit Receipt), build, or rent a replacement property.
- Displacee vacates displacement property.

10.06.02.00 Criteria for Selecting Comparable Replacement Properties

The Agent assigned to complete a Replacement Housing Valuation (RHV) must have a thorough knowledge of the requirements for selecting a comparable replacement property. The RHV Agent should ensure that the most comparable of the three properties is Decent, Safe, and Sanitary (DS&S), comparable, and functionally equivalent.

10.06.03.00 Comparable Replacement Dwelling [49 CFR 24.2(a)(6)]

The term comparable replacement dwelling means the probable replacement residence is:

1) Decent, safe, and sanitary (10.06.05.00);
2) Functionally equivalent to the displacement dwelling (10.06.04.00);
3) Adequate in size to accommodate the occupants (see Room Division Guidelines);
4) In an area not subject to unreasonable adverse environmental conditions;
5) In a location generally not less desirable than the location of the displacee's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the place of employment;
6) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses (10.06.15.00);
7) Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance (10.04.17.00);
8) Within the financial means of the displaced person.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms or less living space than the displacement dwelling. Such may be the case when a DS&S replacement dwelling, which by definition is adequate to accommodate the displacee, is functionally similar to a larger but

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run-down, substandard displacement dwelling. If the owner rents or leases a room(s) in the displacement dwelling to another party, there should be no reduction of rooms when considering a most comparable replacement dwelling for the owner.

10.06.04.00 Functionally Equivalent

49 CFR 24.2(a)(6)(ii) requires that a comparable replacement dwelling be "functionally equivalent" to the displacement dwelling. The dwelling should perform the same function and provide the same utility as the displacement dwelling. While it need not possess every feature of the displacement dwelling, the principal features must be present.

The physical characteristics of the comparable replacement dwelling may be dissimilar to those of the displacement dwelling, but they may never be inferior.

For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a replacement dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in a garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms or, consequentially, less living space than the displacement dwelling. Such may be the case when a DS&S replacement dwelling (which by definition is "adequate to accommodate" the displaced person) may be found to be "functionally equivalent" to a larger, but very run-down substandard displacement dwelling.

Comparability and functionally equivalent do not mean that all aspects of the displacee's lifestyle be replaced, e.g., a rental unit that will accept 14 cats or a single-family residence designed for entertaining. However, special consideration should be given to residences that provide the displacees with unusual views (noted in the market, but an allowable deduction as a major exterior attribute - per FHWA) and easy access (level driveways, or a single story).

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10.06.05.00 Decent, Safe, and Sanitary Dwelling [49 CFR 24.2(a)(8)]

The term "decent, safe, and sanitary dwelling" means a dwelling which meets applicable housing and occupancy codes. Displacees shall not be relocated to inadequate, substandard housing as a consequence of public acquisition.

The most restrictive standard (local code or above) applies. Agencies which may have applicable housing and occupancy codes include city/county planning departments, city/county departments in charge of building permits or inspections, or city/county housing authorities. Absent any local requirements, the dwelling shall:

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

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

3) Contain a heating system capable of sustaining a healthful temperature (approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system.

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

   There shall be a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. Though there is no requirement as to the number of people that can share a bathroom, the RHV Agent should reconsider using a residence with only one bathroom for an eight-member household.

   In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator.

5) Contain unobstructed egress to safe, open space at ground level unless local fire and building codes require additional methods of ingress/egress such as access to a common corridor.

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6) For a displaced person with a disability, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person (see 10.06.06.00).

Replacement housing must be permanent. Relocations shall not be made into dwellings that are presently or soon-to-be owned by the Department or another public agency and are to be removed for a public project.

Many local housing and occupancy codes require the abatement of deteriorating paint, including lead-based paint and lead-based paint dust, in protecting the public health and safety. Where such standards exist, they must be honored. Even where local law does not mandate adherence to such standards, FHWA strongly recommends that these issues be considered as a matter of public policy. This Department will arrange for the inspection of lead-based paint for all previously occupied replacement dwellings as appropriate.

The following guidelines are used to judge if the replacement dwelling contains an adequate number of rooms for DS&S purposes.

IMPORTANT: The number of bedrooms required for a family is normally based on family size at the time of initiation of negotiations. An increase in family size after that date may require a replacement dwelling with additional bedrooms in order to meet DS&S standards at time of actual displacement. The need for a larger dwelling should only be considered when the family results from natural or adoptive children increase (not considering future births or adoptions) or other new family members in a clear dependency relationship, such as elderly or invalid parents who must live with the displaced family.

When the size of the family falls below the count made at initiation of negotiations, a smaller dwelling may still meet DS&S standards. However, the Department cannot require a displacee to relocate to a dwelling smaller than the one occupied at initiation of negotiations, nor can it consider smaller dwellings as comparable replacements for computing the amounts of differential payments.

If the inspection reveals a possible concern with mold, lead paint, hot water heater strapping, or other local code requirement, the agent should indicate on the report form (RW 10-40) that additional inspections by qualified persons are recommended.

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10.06.05.01 Waiver of Decent, Safe, and Sanitary Standards

The DS&S standard may be waived where unusual conditions exist, and at the request of the displacee. Such waivers require FHWA preapproval, processed through HQ RW RAP.

Whenever waivers are requested (e.g., insufficient bedroom facilities at present, but displacee plans to construct additional living area), complete documentation is required and is retained in the Region/District RAP file. This includes having the displacees sign affidavits acknowledging the waiver request and setting forth remedial plans to assure ultimate compliance of occupancy in DS&S housing.

If a waiver is granted for the displacees to have fewer bedrooms than is required by this section, then the RHV must be revised to consider comparable replacement properties that have fewer bedrooms.

Example: Displacees must have four (4) bedrooms in the replacement property to meet DS&S requirements because there are seven (7) occupants. However, the displacees have requested a waiver of DS&S standards to relocate into a three (3)-bedroom property. If this waiver is granted, the RHV must be revised to consider three (3)-bedroom properties.

Before displacees request waivers for the number of bedrooms, they must be advised that their RHP may be reduced.

ROOM DIVISION GUIDELINES

- A maximum of two persons may occupy a zero-bedroom unit such as a studio apartment.
- For units larger than zero-bedroom units, two persons per bedroom shall be used as a guideline in determining the number of bedrooms required for replacement housing. More than two persons may occupy a bedroom provided the room is adequate in size to accommodate normal bedroom furnishings for the room occupants (e.g., three toddlers in a larger bedroom, an infant in the bedroom with the parents).
  One person may qualify for a separate bedroom if that person is disabled or incapacitated, and requires additional space for medical equipment or maneuverability.

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ROOM DIVISION GUIDELINES (Continued)

- If applicable housing and occupancy codes for the area of the comparable replacement require a greater number of bedrooms for the household than indicated by the above guidelines, the greater number of bedrooms according to code should be used in the replacement housing valuation. (E.g., children that are wards of the court, or some other jurisdiction, may be required to have a separate bedroom from adults or other children of a different gender.)
- Dwellings with less square footage and/or fewer number of rooms than the displacement dwelling should not be used as comparables. However, if a displacee is relocating to subsidized housing, occupancy standards of the housing authority issuing the subsidy shall be used to determine the number of rooms required.

49 CFR 24.2(a)(6)(ix) states that Section 8 provisions on the number of bedrooms required for the size and composition of the displacement household prevail when determining a comparable replacement property, even if the number of bedrooms is less than the displacement property. If the displacees choose to move from nonsubsidized housing to subsidized housing, the RHV will be based on the occupancy requirements for subsidized housing.

49 CFR 24.2(a)(8)(iv) states that the number of bedrooms for a replacement property may be established by a federal, state or local jurisdiction that has the authority over the displaced residential occupants (requiring children of a certain age be separated from another because of age or gender).

Note - at the time of this revision, Federal Housing Authority (FHA), Housing and Urban Development (HUD), and Fair Employment and Housing Agency (FEHA), all stated in their guidelines that separation by age and gender was discriminatory, and agencies could not mandate households separate their members by age and/or gender.

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10.06.06.00 Barrier Free Housing [49 CFR 24.2(a)(8)(vii)]

Regulations provide sufficient flexibility when computing replacement housing payments when accommodations need to be provided for a displaced person with disabilities. (See 10.06.05.00 - item 6.)

The Department's procedures ensure that needs of a displaced person with disabilities are addressed in the RHV.

The Region/District may base the RHV on (1) a dwelling designed for physically disabled persons, or (2) the additional estimated costs to make needed modifications. Whichever method is used, the displacee must be presented with a home that is suitable to their disability needs, and that the PD is based on a comparable replacement property that is barrier free. Method (2) ensures there are limits in the amount of funds the Department will provide in order to acquire and rehabilitate a property to accommodate the displacee's physical limitations.

Customized features contained in the subject, or required in the replacement (e.g., ramp, widened doorways, bathtub railings, and lowered counters), may be replaced in the replacement property as add-ons.

Arrangements for modifications to the replacement dwelling purchased by the displaced person must be made by the displacee. The Region/District shall reimburse the displacee for the actual reasonable costs paid for those modifications up to the spend-to-get limit.

Rental replacement housing could be provided in the same manner, with the consent of the landlord, or the Rent Differential could be increased to appropriately compensate the landlord for any necessary modifications or accommodations necessary for the replacement property to be considered DS&S. Note: Construction of handicapped access is not a moving cost.

If a financial hardship would be created for the displaced person, the RAP Senior could provide an advance replacement housing payment for the needed modifications.

49 CFR 24 requires the replacement property accommodate the displacee's needs in terms of unit size, location, access to services and amenities, reasonable ingress and egress, or use of the unit. 49 CFR 24.2(a)(8)(vii) also addresses the needs of persons with a physical impairment that substantially limits one or more of the major life activities of such individuals. The needs of

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nonphysical disabilities are not addressed since replacement property attributes cannot be identified.

Reasonable accommodation should include the following at a minimum: Doors of adequate width, ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access, and other items that may be necessary, such as physical modification to a unit, based on a displaced person's physical needs.

10.06.07.00 Cost of Comparable Replacement Dwelling [49 CFR 24.402(a)]

The upper limit of a replacement housing payment (Price Differential or Rent Differential) shall be based on the cost of a comparable replacement dwelling, considering the following:

1) If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling.
2) If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site (e.g., the site does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purpose of computing the payment.
3) If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the Department may offer to purchase the entire property. If the owner refuses to sell the remainder to the Department, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.
4) To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

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10.06.08.00 Determining the Cost of Comparable Replacements

Requires knowledge of:

- Characteristics of the displacement dwelling so it can be compared with replacement dwellings for sale or rent in the market.
- Number of eligible occupants occupying the displacement dwelling.
- Multiple occupancy rule (separating into separate households). (10.04.17.00.)
- Definition of comparable replacement dwelling (10.06.03.00) and DS&S dwelling (10.06.05.00).
- Policy on mixed-use properties (10.04.28.00).
- Definition of "major exterior attribute" (10.06.16.00) and how this affects the determination of the cost of comparable replacement dwelling.
- Policies concerning adjustments to comparable replacement dwelling rental or purchase costs (10.06.09.00).

10.06.09.00 Other Considerations

RAP valuations are always based on the original or primary status of displacees as found (e.g., owner). Calculations of alternate benefits normally are not made unless the following conditions are met:

- Displacee requests a change of status from owner to tenant.
- Dwellings are available in the alternate status.
- Such dwellings can be provided at no greater cost to the Department (i.e., more economically) than maintaining the original or primary status.

Alternative RAP valuations must be accompanied by a concurrent primary valuation to support the "no greater cost" of the alternate.

(See 10-EX-29 - FHWA Guidance on RHVs.)

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10.06.10.00 Partial Acquisitions

The requirements for computing a replacement housing payment of a partial acquisition with a remaining uneconomic remnant differ from a partial acquisition with a remaining buildable lot.

If the remaining property is an uneconomic remnant (7.03.04.01 and 7.03.04.02), FHWA requires the Department to make an offer to acquire it. The value of the remnant cannot be used in the RHP computation unless the owner elects to sell it to the Department.

EXAMPLE: Uneconomic Remnant

Owner Wishes to Sell:

Cost of Comparable	$80,000
Less: Acquisition Cost of Displacement Property	- $50,000
Less: Value of Uneconomic Remnant	- $10,000
Equals: Price Differential	= $20,000

Owner Does Not Wish to Sell:

Cost of Comparable	$80,000
Less: Acquisition Cost of Displacement Property	- $50,000
Equals: Price Differential	= $30,000

Note: The Department can condemn excess property if the appraisal supports the premise that the remainder is uneconomic in the market.

If the remaining property is considered a buildable lot, 49 CFR 24.403(a)(3) allows the Department the flexibility in determining whether to buy it or not. If the Department offers to acquire it, its value may be included in the RHV computation, regardless of the owner's acceptance or rejection. However, if the Department does not offer to acquire it, the value of the remainder may not be used in the RHV computation. (See Section 07.03.04.04.)

10.06.11.00 Last Resort Housing

The initial or updated RHV often provides the first indication, in terms of money, that a displacee falls under last resort housing procedures.

If the amount of the entire PD or RD exceeds LRH limits, FHWA allows alternate methods in the selection of comparable replacement properties if they are more cost-effective. Example: Instead of using a higher priced six-bedroom dwelling, it may be more cost-effective to consider a five-bedroom property

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and add the cost to construct a sixth bedroom. This would also apply to rehabilitating a non-DS&S dwelling that is available on the market, rather than selecting a superior property as to size, cost, and condition.

10.06.12.00 Replacement Housing Valuation Report (RHV)

A Replacement Housing Valuation (RHV) Report is prepared for each residential household that will be displaced by the project. The request is generated by the Request for an RHV prepared by the agent who conducted the First RAP Call and submitted directly to the RHV Senior or through the RAP Senior. The report should not be initiated until the RHV Senior verifies the number of occupants that are eligible for relocation benefits based on tenure and U.S. residency. In some cases, the RHV for an RD is not requested until the displacees have advised the RAP Agent that they are ready to search for a replacement property. Care should be taken to ensure the average monthly rent is based on the last three months, even if the displacees are now tenants of the State's property.

The RHV Senior and RAP Senior should agree on a time frame for the delivery of the report based on the displacee's needs and the project schedule.

The report shall contain:

- Certification of person preparing report and approval by the Senior Reviewer.
- A description page for the displacement dwelling, including photographs and an analysis of adjustments to the acquisition price.
- A description page for each comparable replacement dwelling, including photographs.
- A map showing location of displacement dwelling and comparable replacement dwellings.

The RHV Agent should obtain a copy of the Fair Market Value (FMV) appraisal to obtain data on the displacement property, but care should be taken when counting the number of rooms in the property.

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10.06.12.01 Date of Valuation

An eligible displacee has one year to purchase or rent and occupy a DS&S replacement property (10.08.01.01). The date displacee purchases, contracts to build, or rents and occupies permanent DS&S replacement property, establishes the final date of value for the RHP.

If a 90-day owner-occupant vacates the displacement property within the one-year time period (10.08.02.00) but does not purchase and occupy or otherwise contract for permanent DS&S accommodations, displacee is entitled to an updated replacement valuation any time during the one-year period (10.08.02.00) but only if the displacee cannot purchase or rent a comparable DS&S property for the value of the RHV. When updating the RHV after displacement, do not consider any changes to income or number of occupants that might have occurred since the one-year time began.

90-day occupants and non-tenured occupants have one year from vacating the displacement property to have the RHV updated.

10.06.12.02 Report Revisions

The RHV does not need to be revised unless the displacee and/or the RAP Agent determine that the comparable replacement properties are no longer indicative of market value, or are not available to the displacee who is actively looking for a replacement site.

The RAP Agent must note in the file when the RHV is determined to be valid or when a revision is warranted.

Typical examples of when an RHV may need to be revised:

- Acquisition appraisal is revised.
- Number of occupants or eligibility of displacee(s) changes (prior to the start of the one-year time period).
- Initial determination was based on erroneous information.
- Prior to service of a RAP Notice.
- A change in market conditions warrants a revision.
- Displacee has filed a relocation appeal objecting to the amount of the RHP.

All rental offers are conditional upon displacee's action, usually within 90 days. Upon expiration of this period, the displacee must be given an updated determination if they are actively seeking replacement housing.

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10.06.12.03 Preparation of the Replacement Housing Valuation

Replacement Housing Valuations (RHVs) must be prepared by someone other than the FMV appraiser, and usually someone other than the Acquisition or RAP Agent involved in the parcel, unless the RHV will be less than $10,000.

Preparation of the RHV

Initial - within 30 days of:

- The FWO for 90-Day Owner-Occupants.
- The First RAP Call for 90-Day Occupants, unless required documentation to establish base monthly rent (income, utility costs, or rental rates) or number of occupants (occupancy certifications and U.S. residency) has not been received.

Revisions (prepare new report) and updates (ensure comps are still appropriate) are required when:

- 90-Day Occupant (tenant or owner) advises the RAP Agent that they are actively seeking a replacement property, and they have not vacated from the displacement property.
- The real estate market has changed significantly indicating that replacement properties will cost more or less than previously calculated, and the displacee has not vacated.
- Displacee files an appeal on the RHP.
- Prior to issuing a Notice.
- Annually from the FWO if the displacees have not vacated.
- The displacee has vacated, but cannot purchase or rent a replacement property within the one-year time period because of values.
- 90-Day Occupants have been State tenants for over three months and have not actively sought a replacement property.

Revisions or updates based solely on changes to income, occupancy, or a recent rental increase are not appropriate.

Decreases in the RHP (PD or RD) are not appropriate unless the Region/District can document that the displacee has made little or no effort to acquire a replacement property after a reasonable period of time.

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10.06.12.04 Approval of the Replacement Housing Valuation - Dual Roles

The same Senior R/W Agent may:

- Review and approve the FMV appraisal and RHV on the same dwelling if that Senior does not also have overall RAP responsibility, in accordance with delegations.
- Review and approve the RHV and be responsible for the RAP function if that Senior does not have responsibility for the FMV appraisal, in accordance with delegations.

10.06.12.05 Approval of the Replacement Housing Valuation - Authority

Replacement Housing Valuations shall be approved in accordance with the RAP statewide delegations. The Senior Agent approving the RHV may need to conduct a field review of the displacement property and all the comparable properties included in the valuation prior to approving the report.

The Agent who prepares the RHV (RHV Agent) and the Senior Agent who approves the RHV (RHV Senior) shall sign RW 10-42.

10.06.12.06 Completing the Report

An RHV report is completed on RW 10-42 which includes the certification by the preparer and the approver. The displacement property information is found on page 2 and the comparable replacement property information is on the remaining pages.

An original photograph of the displacement property and each probable comparable replacement property must be attached to the report, along with a map depicting the location of the properties.

Selection of the most comparable property must be in compliance with this section and 49 CFR 24.204.

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10.06.13.00 Valuation Method

The RHV Agent determines the probable purchase or rental amount of a comparable replacement property by analyzing at least three comparables that are available for sale or rent. Less than three comparables may be used only when three are not available, in which case an explanation is given on the valuation sheet.

The selected comparables must be those most nearly comparable to and at least equal to or better than the displacement property. Particular attention to living area and functional equivalency is necessary for all comparable dwellings selected (10.06.04.00).

The replacement value shall be the probable sales price or rental rate of an available property most comparable to the displacement property. The reasons for choosing the most comparable property are shown on the valuation sheet.

Where there are no directly comparable units available, the RAP Agent shall consider the following in selecting a replacement property:

- Rehabilitation of or additions to an existing replacement dwelling.
- Relocation and rehabilitation, if necessary, of an existing dwelling.
- Use of the next highest value residential unit available.
- Use of similar properties in a higher value neighborhood.

Reasonable cost should be a consideration in implementing any alternatives.

10.06.14.00 Selection of Comparables

The RHV Agent should personally inspect the displacement dwelling unit, both inside and out, to assure the proposed replacement properties are comparable and meet the standard of equal to or better. In addition to a brief description of condition, quality, and effective age of the unit, the Improvement Remarks Section of RW 10-42 should contain brief descriptive terms necessary for the RHV Senior to understand special or unusual features found in the displacement dwelling unit. A remark may also be appropriate where the displacement dwelling unit has a special feature (e.g., large kitchen, hardwood floors, built-in furniture, or luxury decoration). Conversely, a remark should be made where the subject lacks usual items (e.g., an unfinished room, unusually poor condition, or dirt floors).

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An analysis of the displacement neighborhood is needed if the proposed comparable properties are not within the same neighborhood. Public and private facilities that are significant amenities to the displacement neighborhood should be identified and considered in selecting the comparable replacement neighborhood. Particular attention should also be paid to displacee's place of employment or other location upon which displacee may depend.

The RHV Agent cannot adjust the asking price of a comparable replacement property when computing the replacement housing payment. This procedure was deleted from the Final Rule issued January 4, 2005, so there is no longer any authority or basis for agencies to make adjustments which would reduce the amount of the homeowner's replacement housing payment.

The comparable unit chosen for the calculation of the RHP should be physically inspected inside and outside. Proposed Comparable Replacement Dwelling data shall be entered on RW 10-42 in sufficient detail to allow any reviewer to readily compare all descriptions of the comparable replacement dwelling to those of the displacement dwelling. All features lacking in the comparable dwelling as compared to the displacement dwelling and all features found to be in addition to those in the displacement dwelling shall be described. Additional data sheets may be used. The comparable replacement dwelling should usually be chosen from an area of equal or higher value, although a dwelling that is somewhat smaller (50-75 sq ft [15-23 sq m]) but is modern and functionally equivalent may be chosen to replace an old, dilapidated dwelling (10.01.09.03).

To the extent possible, an investigation should be made of the special features of the displacement dwelling, the surrounding neighborhood, and the overall environment.

NOTE: The Region/District is responsible to provide reasonable comparable replacement dwellings to the residential displacee. The Region/District is not obligated to replace multi-use amenities that the displacement property might contain, such as in the case of residential properties that have rental units attached or built on the property (e.g., an apartment over the garage).

As part of the Advisory Assistance and as a service to the displacee, the District should identify other similar use properties that are available to the displacee. However, from a valuation and replacement standpoint, the pertinent comparables should only reflect a reasonable replacement of displacee's basic dwelling unit. Availability of similar mixed-use or multi-use properties does not constitute an offer of available replacement property under the

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requirements of the Uniform Act. The displacee's residential portion must be carved out.

There are three types of adjustments that could be made to the displacement property: Major Exterior Attributes (10.06.15.00), Carve-out for Mixed or Multiple Uses (10.06.16.00), and Carve-out for a Dwelling Site (Oversized Lot) (10.06.17.00).

An adjustment to the replacement property may include construction costs to correct minor DS&S deficiencies (including handicapped facilities).

The RHV Agent should exercise good judgment when selecting comparable properties and remember to be prudent and economical when attempting to replace all aspects of the displacement property's amenities. 49 CFR 24 states that a comparable property is in a neighborhood "not less desirable," not necessarily the same neighborhood.

10.06.15.00 Major Exterior Attributes [49 CFR 24.403(a)(2)]

When the site of the comparable replacement dwelling lacks a "major exterior attribute" of the displacement dwelling site, the contributory value of such attribute should be subtracted from the acquisition cost of the displacement dwelling for purpose of computing the maximum replacement housing payment. Such an action is known as a carve-out.

There are three key issues in this statement. First, the carve-out is initially based on the comparable replacement, e.g., the first priority is to locate an available replacement dwelling comparable to the displacement dwelling, then look at the differences that could necessitate a carve-out.

The second issue is that for an item to be eligible to be a "carve-out," it must be exterior to the residential dwelling. Items that are part of the dwelling but may be difficult to replace are not items that are eligible for a carve-out.

The final issue is that when subtracting from the acquisition cost for a carve-out item, the monetary figure to be used is the contributory value of the items. The item that is carved out should be of some significant value to warrant a carve-out. Not every exterior item needs to be carved out.

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10.06.15.01 Carve-out for Major Exterior Attributes

The comparable replacement dwelling used in computing the RHP must be comparable to the displacement dwelling unit. When the comparable used in computing the PD is similar except it lacks a major exterior attribute (such as a swimming pool or outbuilding) that contributes materially to the value of the displacement unit, the contributory value of the major attribute is subtracted from the total acquisition price of the displacement dwelling to arrive at the value of a comparable dwelling and home site. The RHP is the difference between the adjusted value of the displacement dwelling (displacement value) and home site and the price of a comparable dwelling (replacement value) and home site.

Items of realty identified in the appraisal report contributing less than $500 to the value of the entire property shall not be carved out from the displacement property value.

10.06.16.00 Computing a Replacement Housing Payment When a Higher and Better Use is Indicated

In computing a replacement housing payment for an owner-occupant whose residential property is appraised at a higher and better use (land as if vacant), use the acquisition cost for the land area that represents a typical lot size plus the contributory value of the owner-occupied dwelling as shown in the FMV appraisal. (49 CFR 24 Non Regulatory Supplement.)

10.06.16.01 Carve-Out for Mixed-Use and Multiple Use Properties

Special procedures are required when the displacement property is not a typical residential unit. A special valuation approach is used to isolate the residential value in a property that possesses more than just a single residential use.

If the displacement dwelling is part of a property that contains another dwelling unit and/or space used for nonresidential purposes, there must be an allocation of the acquisition price of the displacement property to the isolated residential use. This is known as a carve-out. The residential land area is determined by inspection. For example, on a farm, include the footprint of the house and any outside areas dedicated to the residential use.

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The way in which the land value is allocated will depend on whether the displacement dwelling is situated on land with a residential highest and best use, or on land with a nonresidential highest and best use. The entitlement or RHP is based on the amount actually paid for the residential portion.

If the Highest and Best Use is residential, determine the land area occupied by the residential use. Then apply the residential land value (site value) from the FMV appraisal to the land area occupied by the residential use. Last, add the contributory value of the residential improvements from the FMV appraisal.

If the Highest and Best Use is nonresidential, determine the land area occupied by the residential use. Apply the nonresidential land value from the FMV appraisal (the amount actually paid) to the land area occupied by the residential use. Where the dwelling is located above or below the other use (vertical configuration), the land value must be prorated between the uses. See 10-EX-19, Example #3. Add the contributory value of the residential improvements from the FMV.

10.06.17.00 Carve-Out for Dwelling Site (Oversized Lot) [49 CFR 24.2(a)(11)]

The term "dwelling site" means a land area that is typical in size for similar dwellings located in the same neighborhood or rural area. This definition ensures that the computation of replacement housing payments are accurate and realistic a) when the dwelling is located on a larger than normal site, b) when mixed use properties are acquired, c) when more than one dwelling is located on the acquired property, or d) when the replacement dwelling is retained by the owner and moved to another site.

If the displacement dwelling is located on a site that is significantly larger than typical for the displacement area, a deduction from the acquisition price of the surplus land's contributory value may be required. The RHV Agent should use the information in the appraisal report to obtain the contributory value of the area surplus to the typical lot size, if available. If the information is not contained in the FMV report, the RHV Agent must conduct the necessary research.

Residential land is commonly sold on a site value basis, wherein minor differences in overall area do not have an effect on the total value of the site. In these cases, the surplus land may have little or no contributory value. When choosing the comparable replacement properties, the RHV Agent may use lot sizes that are reasonably similar but slightly smaller than the

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displacement property lot size if the residential utility and values in the market are also similar.

The adjustment shall be made to reflect the cost of the displacement dwelling on a typical residential site (site value) based on the properties available in the replacement area. The RHV Agent should use the information in the appraisal report to obtain the contributory value of the property in excess of the displacement's typical lot size.

When selecting a comparable replacement property, the RHV Agent should use property sites that are equal to or slightly larger than the displacement property's lot size (including the carved-out portion for "typical" lots). In rare cases, the agent may use lot sizes that are reasonably similar but slightly smaller than the displacement property lot size if the residential utility and values in the market are also similar.

10.06.18.00 Carve-Out for Replacement Property

The amount of the RHV cannot be paid to the displacee until they meet all the criteria identified in 10.08.00.00. In situations where the displacee purchases or rents a replacement residence for an amount that exceeds the RHV, the maximum RHP can be paid.

If the displacee's actual replacement property contains another dwelling unit and/or space used for nonresidential purposes (mixed use/multiple use), or the property is significantly larger than the comparable replacement dwelling site per the Replacement Housing Valuation (oversized lot), an adjustment to the purchase price of the actual replacement property must be made to isolate the cost of the residential portion of the actual replacement property (dwelling and land) to ensure the displacee has met the "spend-to-get" requirements for a DS&S dwelling. The same methods and cautions used for adjusting the displacement property and comparables apply to the replacement property.

10.06.19.00 Special Valuation - New Construction

In last resort situations, the cost of new construction must be analyzed when the probable selling prices of comparable replacement dwellings approach the cost of constructing new replacement housing. If more economic, this method should be used for preparing the RHV. The value should be based on a sufficiently detailed analysis to support the conclusion, and the basis should be indicated. The amount should enable the owner to construct the replacement housing.

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The RHV Agent should secure cost figures from the best sources available and thoroughly review them to ensure applicability and validity. Although the use of specific plans and specifications is preferred, cost figures from internal sources in the District or supported estimates from contractors may be used if necessary. The quality and scope of the cost figures must assure that the replacement dwelling can be built at the figure determined.

New replacement housing should be interpreted broadly to include the normal costs associated with construction of a new home. Inclusion of the cost of site acquisition and contract administration is proper. Normal and adequate landscaping and miscellaneous yard improvements (including residential fencing, driveways, and walks) should be considered in the cost estimates.

The cost to construct becomes the RAP entitlement to be offered if it is in fact the most practical and economic. The basis for determining costs is explained when the RAP Agent makes the offer to the owner.

The RAP Agent must fully explain the following options to the owner:

- Owner makes arrangements for construction.
- Owner purchases a replacement dwelling.
- If time permits, owner waits for listings to become available.
- State may adjust the offer based on higher listing levels if justified by the circumstances.

The owner should be made aware that the RHV may be adjusted in the future based upon availability of comparable property appearing in the market. If comparables do appear in the market at a lower price than the RHV based on the cost of new construction, the RHP should be withdrawn upon expiration and a new offer made, unless displacee has relied on that information and made binding commitments.

10.06.20.00 Special Valuations Required

The RAP Agent may encounter relocation situations that require special valuation. The examples in Exhibit 10-EX-19 illustrate the application of special valuation procedures for the most commonly encountered situations.

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10.06.21.00 Rent Differential (RD) Calculations

When preparing the RHV for an RD, the RHV Agent must compare the average base monthly rent for the last three months, including utility costs.

Utility costs are those expenses for heat, lights, water, sewer, and garbage. The source for these expenses can vary between urban and rural sites (e.g., propane gas, septic system, and private garbage pickup). As utility costs vary depending upon the season, the displacee must provide the average monthly utility costs based on the last year, not the last three months.

The monthly rent for the comparable replacement properties needs to be adjusted to include average estimated utility cost based on the neighborhood and size of the dwelling, which may be obtained from the utility companies.

The RHV Agent should take special care in calculating utility costs especially when comparing a rural displacement property to comparable properties in an urban area with different types of utility service. Additionally, the average utility costs at the comparable replacement property must consider increased size and rooms as mandated by DS&S standards (e.g., comparing a two-bedroom residence with septic and propane, to a three-bedroom residence with sewer and all electric appliances).

Rent Differentials may be based on other factors than the average monthly rent at the displacement property. Depending on the situation, the RD could be based on economic rent, plus average utilities or it could be based on 30% of the displacees income, without adding average utility costs. The RHV Agent should not take these factors into consideration when selecting the most comparable property.

10.06.22.00 Mobile Home Replacement Housing Valuation Issues

Replacement Housing Valuation requirements for mobile homes, manufactured homes, and recreational vehicles are generally the same as for conventional dwellings, but there are differences in the way the comparable data is gathered and used. In addition, since mobile homes are sometimes bought or rented separately from the replacement site, which may be owned or rented, two computations are needed: one for the mobile home and one for the site.

Appendix A, 49 CFR 24.2(a)(17) provides examples on the types of mobile homes and manufactured housing that can be found acceptable as

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comparable replacement dwellings for persons displaced from mobile homes. A recreational vehicle that is capable of providing living accommodations may be considered a replacement dwelling if the following criteria are met:

- The recreational vehicle is purchased and occupied as the 'primary' place of residence.
- It is located on a purchased or leased site and connected to or has available all necessary utilities to function as a housing unit on the date the Department conducts the DS&S inspection.
- The dwelling, as sited, meets all local, state and federal requirements for a DS&S dwelling.
- Note: Some local jurisdictions will not permit the consideration of these vehicles as DS&S dwellings. In those cases, the RV will not qualify as replacement dwelling.

10.06.22.01 Mobile Home Probable Selling Price

The comparables must conform to the definition of a comparable replacement dwelling.

There are several places to find market prices of mobile homes:

- Mobile home dealers.
- Local multiple listing services.
- Units for sale by individuals.
- Mobile home parks.

Where available, retail prices from the manufacturer of the displacement mobile home unit may help, taking into consideration any changes in materials and quality.

New mobile homes must often be used as comparable replacement dwellings because the number of comparable used units on the market is inadequate. The use of new mobile home units as comparables may create inequities if some displacees receive payments based on new units and others receive payments based on used units. Consequently, the selection of new or used units as comparables should be carefully made and consistently applied.

Mobile home accessories, such as awnings, skirting, and storage sheds, shall be added to the most probable selling or rental price when:

- The acquired mobile home has the accessory, or
- The accessories are required to get an adequate replacement site.

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If these accessories are included in the analysis of the replacement, the RAP Agent should itemize them on the RAP valuation form to avoid duplicate payments. The final valuation must include all delivery and installation costs necessary for occupancy and exclude incidental costs (e.g., sales or use tax, transfer fee, and permit fee).

10.06.22.02 Replacement Site (Mobile Home)

When the most comparable mobile home used to calculate the PD is located on a rented site, the rent charged at that specific site must be used in determining the RD.

If a new mobile home not yet located on a site is used to compute the PD, then the current rental rate for mobile home sites should be obtained by surveying parks with comparable vacant sites.

10.06.22.03 Rental Sites (Mobile Home)

The current rental value for mobile home sites may be obtained by surveying parks with comparable available vacancies.

10.06.22.04 Purchase Sites (Mobile Home)

The purchase of a mobile home site usually involves isolated single mobile home relocations. The RAP Agent must find comparable replacement sites in the local real estate market, paying particular attention to local zoning regulations to ensure that a mobile home is permitted. If the site is unimproved, the estimated costs to build a mobile home pad and bring in utilities is added to the replacement value of the site.

10.06.22.05 Purchase/Rental of Mobile Home and Site

In cases where the replacement mobile home and site are purchased or rented together, the RAP Agent must seek packaged comparables in the market. If none are available, comparables will have to consist of the replacement mobile home and replacement site done separately.

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10.07.00.00 - MOBILE HOMES

10.07.01.00 Applicability [49 CFR 24.501]

This section describes the requirements for relocation payments to a person displaced from a mobile home and/or mobile home site who meets basic eligibility requirements. Except as modified by this section, such a displaced person is entitled to a moving expense payment of their personalty in accordance with 10.04.02.00. Replacement housing payments should be paid in accordance with the same requirements as persons displaced from conventional dwellings.

10.07.02.00 Moving and Related Expenses [49 CFR 24.301(c)]

The owner of a mobile home that is not acquired by the Department is eligible for the actual, reasonable, and necessary expenses to relocate that mobile home to another site.

The owner of the mobile home who occupies the unit is also eligible for an RHP described further in this section. However, if the mobile home is not acquired, but the homeowner-occupant obtains an RHP under one of the circumstances described in 10.07.03.00, the owner is not eligible for payment for moving the mobile home. The owner-occupant may also be eligible for a payment for moving personal property from the mobile home.

The following rules apply to payments for actual moving expenses under 49 CFR 24.301:

1. A displaced mobile home owner, who moves the mobile home to a replacement site, is eligible for the reasonable cost of disassembling, moving, and reassembling any attached appurtenances, such as porches, decks, skirting, and awnings which were not acquired, anchoring of the unit, and utility "hookup" charges.
2. If a mobile home requires repairs and/or modifications so it can be moved and/or made decent, safe, and sanitary, and the Department determines that it would be economically feasible to incur the additional expense, the reasonable cost of such repairs and/or modifications is reimbursable.
3. A nonrefundable mobile home park entrance fee is reimbursable to the extent it does not exceed the fee at a comparable mobile home park,

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if the person is displaced from a mobile home park or the Department determines that payment of the fee is necessary to effect relocation.

Exhibit 10-EX-21 shows moving cost methods that displacees may select. The two basic cases are shown in the following table:

Criteria	Method
Mobile home is purchased and is not relocated.	Displacees may be paid to move their contents based on actual cost or Moving Expense Schedule A or B (10.04.02.03).
Mobile home is not purchased by the State, but is relocated.	Payment for the move may be based on actual cost or self-move. If the mobile home and household goods are moved to separate locations, actual cost method must be used for both the mobile home and household goods. Occupants of mobile homes may be paid for moving their personal property in the mobile home by any of the three methods described in 10.04.02.02. A payment for moving the mobile home itself is made on an actual cost basis.

10.07.02.01 Actual Cost of Mobile Home Moves

Displacee shall obtain two bids and submit them to the District for approval prior to the move. If necessary, the District may assist displacee in obtaining the required bids. Upon approval of the bids, the District will inform displacee to proceed with the lowest bidder. Prior to approval, the District must carefully review the bids with special attention to:

- Disconnecting and reconnecting utilities and appliances.
- Providing an additional axle and/or brakes, if necessary, to comply with State requirements.
- Alternative of shipping the unit on a lowboy trailer.
- Need to rent wheels and/or tires.
- Temporarily protecting separated doublewide units.
- Resealing the roof, especially for older units.
- Dealing with floor material when units are split.
- Replacing items such as awnings, skirting, and steps to bring them up to code.
- Setting up on replacement pad, which includes leveling and fitting skirting to the new contour.

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10.07.02.02 Moving Expenses for Personalty

The occupant of a mobile home unit is entitled to moving expenses for their personal property contained in and around the mobile home unit. Moving expenses can be paid for either with an actual move (by a for-hire carrier), an MSA, or a Fixed Moving Schedule payment.

If the mobile home unit is moved to a replacement site, some of the personal property may be moved as part of the unit. The RAP Agent should ensure that items moved with the mobile home unit are not included in the calculation of a Fixed Moving Schedule.

The nonoccupant owner of a mobile home unit may also be entitled to moving expenses for personal property. These items might include the appliances in the mobile home or yard fixtures that were not acquired. The basis for the payment can be an actual move, a self-move, or a Fixed Moving Schedule. Again, the RAP Agent should ensure that items moved with the mobile home unit (e.g., appliances) are not included in the calculation of a Fixed Moving Schedule.

10.07.02.03 Additional Actual Costs

Allowances for food and lodging required during move and setup time for mobile home relocation are paid in accordance with the appropriate procedures in 10.04.02.01. The RAP Agent shall predetermine the number of rooms and meals and incidental allowances based on size and composition of the displaced family.

When a mobile home is moved to an individual site, the RAP Agent must predetermine that the mobile home meets code requirements for placement on the site.

Payment for acceptable miscellaneous mobile home moving costs (such as painting or waxing, skirting, awnings, landscaping, and minor work to hide protuberances) is made only to achieve the move where alternatives are:

- To buy the unit and pay a PD that exceeds the total move cost.
- To indefinitely postpone the move.

These items must be required in available comparable parks. A statement of landscaping requirements should be obtained in advance of the move.

The standard 50-mile limit applies to mobile home moves.

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10.07.03.00 Replacement Housing Payment for 90-Day Mobile Home Owner-Occupants [49 CFR 24.502]

A displaced owner-occupant of a mobile home is entitled to an RHP if the person both owned and occupied the mobile home on the displacement site for at least 90 days prior to the FWO, and all the other basic eligibility requirements are met.

To be eligible for benefits, the Department must either:

a) Acquire the mobile home and the mobile home site, or
b) Determine that the mobile home that is not to be acquired cannot be moved because:

- It is not and cannot economically be made decent, safe, and sanitary; or
- The unit would incur substantial damage or unreasonable cost; or
- There is no available comparable replacement site (and is not capable of being moved); or
- It does not meet mobile home park entrance requirements.

A 90-day owner-occupant who is displaced from a mobile home on a rented site may be eligible for a PD based on a comparable mobile home available for purchase, plus an RD based on a comparable mobile home site available for rent. The 90-day owner-occupant who rents the mobile home site may be eligible for a DP in lieu of the RD if a replacement site is purchased. All basic eligibility requirements must be met.

10.07.03.01 Price Differential (PD)

A PD is paid when the Department purchases the mobile home.

The District must make a market value appraisal of the mobile home as soon as it qualifies for purchase. The PD is the difference between the amount paid for the unit and the probable cost of the most comparable replacement dwelling, which could be another mobile home setup or a conventional residential property.

Payment may be released when transfer of title is complete. As with other replacement housing entitlements, spend-to-get applies. The cost of

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awnings, carports, skirting, landscaping, and installation may be added, but incidental expenses should not be included in the PD calculation.

Site purchase differentials apply when the Department acquires a mobile home site from the owner-occupant and displacee purchases and occupies a replacement property.

10.07.03.02 Purchase of Replacement

If a replacement unit is purchased from a dealer, displacee must open an escrow account with an authorized escrow agent. Escrow instructions must prohibit the release of funds prior to satisfactory installation of the mobile home and passage of title. Between private parties, the transaction may be handled by escrow or the funds held in the District until completion of the transaction. For assignments and verification of occupancy, Exhibits 10-EX-23 and 10-EX-24 may be used. Either way the transaction is handled, other RAP payments due the claimants may be deposited into escrow to reduce the need for purchase financing.

10.07.03.03 Suitable Replacement Sites

The requirements for comparable replacement dwellings apply to the selection of replacement sites. Displacee should be given as many choices of suitable replacement sites as are available at the time of relocation.

Where many units must be relocated and only a small number of sites can be found, it is not required that all vacancies are filled before authorizing purchase. Generally, the vacancy rate should be less than ten percent of need before authority to purchase and pay an RHP is granted.

The reason for purchasing mobile homes even though there are some vacancies available is so displacees will not have to draw straws to decide who must move into the few available vacant spaces and who can wait for the RHPs offered to those who cannot find a space.

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10.07.03.04 Incidental Expenses

There are some variations in the eligible items discussed in 10.04.13.00. The major ones are:

- Sales tax or use tax payments - reimbursement is based on the calculated replacement cost or the actual taxes paid, whichever is less. The sales taxes paid on necessary added improvements are also eligible.
- DMV title transfer fees.
- Permit fees - such as charges for building and transportation permits, if not part of the moving expenses.

10.07.03.05 Mortgage Differential Payment

Mobile home loans typically have shorter terms and higher interest rates. Interest rates may be obtained from local institutions that provide mobile home financing. The displacee must have a loan on the displacement property (conventional dwelling, mobile home unit, mobile home site), to qualify for an MD payment.

The following instructions cover the two basic relocation situations:

- Conventional Dwelling to Mobile Home - The maximum rate to be applied is the current prevailing loan rate in effect for conventional dwellings when displacee obtains the financing commitment.

- Mobile Home to Mobile Home or Conventional Dwelling - The maximum rate to be applied is the current prevailing interest rate applicable to the type of replacement dwelling displacee purchases and occupies.

10.07.03.06 Converting PD to RD for 90-Day Mobile Home Owner-Occupant

A 90-day mobile home owner-occupant may elect to rent, instead of purchase, a DS&S replacement dwelling. If so, the 90-day owner-occupant should be advised that they can receive an RD in lieu of the entire RHP (PD, MD, and/or IE) for purchasing a replacement dwelling. Inform the displacee a new RHV will be prepared and Conditional Entitlement Letter provided. The new Conditional Entitlement Letter - 90-day Occupant will be accompanied by a cover letter stating that the new comparable rental address and computation are being provided per their request.

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The 90-day owner-occupant need not be entitled to a PD as such to qualify for an RD. The maximum RD is calculated in the same manner as with 90-day occupants, except that the space rent at the displacement property is based on economic rent, and the RD cannot exceed the calculated Price Differential.

Any advance monies from an RHP (e.g., credit report and appraisal fees paid into escrow for a potential purchase) that have already been paid should be deducted from the RD to avoid duplicate payments.

The 90-day/30-day Notices required under 49 CFR 24.203(c) that are sent to a 90-day owner-occupant who chooses to rent will provide the addresses of comparable replacement properties that are available for rent, not sale.

<u>EXAMPLE - 90-day Mobile Home owner-occupant who rents</u>:

Comparable Replacement Mobile Home lists for:	$66,000
Fair Market Value of Displacement Mobile Home:	$55,700
Maximum Price Differential for Mobile Home:	$10,300
Comparable Space Rent for Replacement site:	$700/month
Actual Space Rent at Displacement site:	$300/month
Maximum Space Rent Differential	
$700 - $300 = $400 x 42 = $16,800:	$16,800
Maximum Replacement Housing Payment:	$27,100
Price Differential for Mobile Home = $10,300	
Space Rent Differential = $16,800	
New Replacement Housing Valuation for RD	
Actual Fair Market Rental of Replacement Dwelling	$800/month
Economic Rent at Displacement (Mobile Home + Space)	$650/month
Maximum Rental Differential	
$800 - $650 = $150 x 42 =	$6,300

Owners can receive a $6,300 Rent Differential since it is less than the maximum Replacement Housing Payment ($27,100). They also have one year from the date they occupied the replacement property rental to convert back to an owner and receive the balance of the RHP ($27,100 - $6,300 = $20,800), plus any entitlement they may qualify for as a Mortgage Differential and Incidental Expense. However, they would not be entitled to an additional moving payment for the second move.

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10.07.04.00 Replacement Housing Payment for 90-Day Mobile Home Occupants [49 CFR 24.503]

A displaced 90-day occupant of a mobile home is eligible for an RHP if the person:

a) Rented and occupied the mobile home on the displaced mobile home site for at least 90 days prior to the ION.

And:

b) Meets all the other basic eligibility requirements.

10.07.04.01 Rent Differential (RD)

Rent Differential payments for the mobile home tenant may be combined with other benefits to which displacees are entitled (10-EX-21). The Department only has to acquire the site from the tenant in order for the tenant to be eligible for an RD payment.

There may be circumstances when the displacee owns the mobile home and rents the site (and vice versa). The displacee's tenure as a tenant or an owner is determined by their status in the mobile home unit, not the mobile home site.

Example: Owns the mobile home, rents the site. Treat them as an owner (all other eligibility requirements must be met).

Example: Rents the mobile home, owns the site. Treat them as a tenant (all other eligibility requirements must be met).

10.07.04.02 Down Payment (DP)

An eligible 90-day occupant may convert the RD to a DP of at least $7,200. The full amount of the DP must be applied to the purchase price of the replacement dwelling (e.g., mobile home, mobile home site, conventional dwelling) and related incidental expenses.

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Down Payments are done in the same manner as conventional dwellings (see Section 10.04.25.00 for details) except:

- Escrow requirements are the same as mobile home PD.
- The RD can be based on just the mobile home, the mobile home site, or both.
- The Department needs to acquire only the site to qualify displacee for payment.
- 90-day mobile home owner-occupants who formerly rented their site can qualify for a DP on a replacement site up to the amount of the RD.

See Exhibit 10-EX-22, Guidance on Converting a Rent Differential (RD) to a Down Payment (DP) for a Mobile Home, for sample computations.

10.07.05.00 Replacement Housing Payment Based on Dwelling and Site

Both the mobile home and mobile home site must be considered when computing an RHP. For example, a displaced mobile home occupant may have owned the displacement mobile home and rented the site or may have rented the displacement mobile home and owned the site. Also, a person may elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In such cases, the RHP shall consist of a payment for a dwelling and a payment for a site. However, the total RHP shall not exceed the maximum payment (either $31,000 or $7,200) permitted under the section that governs the computation of the dwelling before last resort housing payment provisions must be applied.

10.07.05.01 Cost of Comparable Replacement Dwelling

If a comparable replacement mobile home and/or mobile home site is not available, the RHP shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

A mobile home site in a rural area should never be compared to a mobile home site in a mobile home park. If the mobile home unit will be moved, then the RHP for the mobile home site should be based on a comparable replacement site as to size and amenities. If necessary, the cost of site preparations necessary to accommodate a mobile home (e.g., pad, utilities, ground preparation) should be included in the calculation of the RHP.

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If the Department determines that it would be practical to relocate the mobile home, but the owner-occupant elects not to do so, the Department may determine that, for purposes of computing the PD, the cost of a comparable replacement dwelling is the sum of:

- The value of the mobile home; and
- The cost of any necessary repairs or modifications; and
- The estimated cost of moving the mobile home to a replacement site.

10.07.06.00 Initiation of Negotiations

If the mobile home is not actually acquired, but the occupant is considered displaced under this part, "initiation of negotiations" is the date the offer is made to acquire the land, or, if the land is not acquired, the written notification that he or she is a "displaced person."

10.07.07.00 Person Moves Mobile Home

If the owner is reimbursed for the cost of moving the mobile home under this part, he or she is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. The person may, however, be eligible for assistance in purchasing or renting a replacement site.

10.07.08.00 Partial Acquisition of Mobile Home Park

The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the Department determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the owner and any tenant shall be considered a displaced person who is entitled to relocation payments and other assistance.

10.07.09.00 Part Ownership of a Mobile Home

The occupant of a mobile home who owns a partial interest in the unit should be treated as an owner of the mobile home unit. The Department is not required to provide persons owning only a fractional interest in the displacement dwelling with a greater level of assistance to purchase a replacement dwelling than would normally be required if the person was the sole owner of the property.

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The partial interest owner may be entitled to receive an RHP based on the difference between the asking price of a comparable mobile home site and the total acquisition price of the displacement site - not their fractional interest or share. If no mobile home sites are available for purchase within the displacee's financial means, then the fractional interest owner may be entitled to an RD.

10.07.10.00 Mobile Home DS&S Inspections

Decent, safe, and sanitary requirements are generally the same as those for conventional dwellings, except a mobile home must have an HCD approval decal. The mobile home must be placed in a fixed location on real property in accordance with local laws and ordinances.

A RAP Agent should inspect a mobile home prior to purchase since it may lack qualifying DS&S features.

10.07.11.00 Rental of Vacant Spaces

Situations have arisen in the acquisition of mobile home parks where displacees, by reason of occupancy at the time of the offer, relocated before the Department acquired the park. The owner of the mobile home park re-rented the vacant spaces to Non-Tenured occupants. When the Department attempted to vacate the mobile home park, ineligible displacees were unable to relocate their mobile homes since:

- The mobile homes were not acceptable in other mobile home parks in the area because they were of substandard size or condition, or
- No replacement housing of any type was available in the replacement area.

The lack of sufficient spaces to relocate eligible tenants has also caused problems. This has resulted in project delays and the implementation of LRH payments, at a substantial cost to the State, to relocate these persons. Two potential solutions to these problems are available:

- Rental of spaces in the park to be acquired to prevent Non-Tenured occupants from moving into the right of way.
- Rental of spaces in probable replacement mobile home parks to secure future spaces for eligible displacees who could not otherwise relocate.

The Acquisition function may rent vacant mobile home spaces in replacement parks, as noted above, using an appropriate agreement with

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the owner. This procedure is implemented only if absolutely necessary since its effect on the replacement housing market could be significant and politically sensitive. It should be the last possible use of normal relocation benefits short of proceeding with LRH.

Rental of spaces in other mobile home parks must be discussed and justified in the RID. All other means of providing solutions to relocation problems must be explored before rental of spaces can be recommended. The RID must discuss type and location of replacement parks and their ability to accommodate displacees.

10.07.12.00 Mobile Home as Replacement for Conventional Dwelling

A mobile home may be used as a replacement for a conventional dwelling provided it satisfies DS&S requirements. Eligibility and benefits under the various occupancy and replacement combinations are covered in 10-EX-21.

Most owner-occupants, whether long-term or short-term, who move from conventional housing to mobile homes will not qualify for RHPs (PD or RD).

Because mobile homes are generally less expensive than conventional dwellings, they will not meet the spend-to-get requirement. This is particularly true where an owner-occupant moves from conventional dwelling and purchases a mobile home and rents the site, or vice versa. The result is that displacee simply purchases a replacement dwelling for less than the price paid for the acquired property or rents a displacement dwelling for less than the economic rent of the acquired dwelling.

Where the RAP Agent knows that owner-occupants of conventional dwellings are considering mobile homes as replacement housing, the RAP Unit must notify the owner-occupants in writing that they may not qualify for any replacement housing payment. The RAP Agent should carefully consider each case on its own merits because the value of the acquired property may be low enough, or the cost of the mobile home high enough, that the owner-occupant could qualify for payment. Claims not meeting spend-to-get requirements shall be denied.

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10.08.00.00 - RELOCATION PAYMENTS

10.08.01.00 Eligibility for Payment

For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves, or for owners, the date of final payment.

10.08.02.00 Payment of Benefits

To be entitled to their full moving expense payment, the displacees (residential, business, etc.) must completely vacate the displacement property and submit a completed claim form as required in this section.

To be entitled to their full replacement housing payments, the residential displacees must rent or purchase and occupy a DS&S replacement dwelling within one year or the later of the following dates:

- For tenants, the date of displacement.
- For non-tenured owners, the date of displacement or the date of final payment, whichever is later.
- For 90-day owners, the date of final payment, or the date the address of a comparable replacement property is provided, whichever is later.

The District may approve time extensions for residential owners and tenant-occupants for good cause.

When displacee enters into a legally binding contract to construct or rehabilitate a replacement dwelling and cannot occupy within the required time limit for reasons beyond their control, date of contract shall be the date of occupancy provided displacee entered into the contract before expiration of the normal one-year period. Payment shall be deferred until actual occupancy. No progress payments may be made during construction or rehabilitation unless the District determines an exceptional condition exists.

The claim may also be completed when displacee relocates before the State acquires the displacement property and an offer has been made for such acquisition (except for non-tenured occupants). However, safeguards must be in place to ensure the displacee will return any price RHP overpayments as a result of an increase in the acquisition price paid for the displacement property.

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10.08.03.00 Time Period to File a Claim [49 CFR 24.207(d)]

All claims for a relocation payment shall be submitted to the Region/District within 18 months after:

- For tenants, the date of displacement;
- For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

The RAP Agent shall return claims received after cutoff dates to displacee explaining why the claim cannot be paid and advising displacee of the right to appeal. Any late payment resulting from the appeals process must be scheduled separately. See Section 10.01.11.15 Tickler File on requirements to track displacee deadlines and sending them a Reminder Letter.

This time period shall be waived by the Region/District for good cause.

See 10-EX-28 for the timelines for residential occupants to occupy and file claims.

10.08.04.00 Documentation of Claims [49 CFR 24.207(a)]

Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills or statements for work performed, paid invoices, copies of cancelled checks, or other evidence of such expenses. A displaced person must be provided reasonable assistance necessary to complete and submit any required claim for payment.

The RAP Agent must verify qualifying activities, such as moving and occupying replacement housing, by personal inspection with documentation in the diary. In some cases, the RAP Agent may confirm payment of bills by telephoning the accounting office of the moving company or other vendor and annotating the diary.

10.08.05.00 U.S. Residency Certification

A U.S. Residency Certification (RW 10-44) must be in the RAP file before any claims are approved.

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10.08.06.00 Expeditious Payments [49 CFR 24.207(b)]

The RAP Senior shall review all claims submitted in an expeditious manner, providing the claimant with a status of the claim (approved, pending, additional information required) within 15 days of receipt. The Claims Package shall be submitted to Accounting within 30 days following receipt of sufficient documentation to support the claim.

The RAP Agent should assist the displacee in completing all claim forms. The first claim form is normally the claim for moving expenses, although some displacees require an advance of their RHPs to secure the rental unit or open an escrow for purchase. See Section 10.08.07.00 for advance payment procedures.

Claims for relocation benefits can be processed as soon as the displacee meets the conditions for their entitlement (10.08.02.00).

The claim may also be completed when displacee relocates before the State acquires the displacement property and an offer has been made for such acquisition.

10.08.07.00 Advance Payments [49 CFR 24.207(c)]

If the displacee demonstrates the need for an advance RHP in order to avoid or reduce a hardship, the Region/District may issue an advance of the RHP and assign it an escrow account or a landlord.

Advance payments for replacement housing can only come out of pending RHPs, not moving expenses.

In rare circumstances, an advance of moving expenses can be made directly to a vendor to secure moving equipment (e.g., moving truck, boxes, dolly). The advance should not exceed 50% of the total estimated moving expense. The RAP Senior must document in the RAP file that the advance of moving is necessary to avoid creating a financial hardship for the displacee.

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Region/Districts should establish criteria and procedures to ensure advance payments are subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished. Determination of acquisition price may be delayed if the Department obtains an OP or RE. Advance RHPs may be made only under the condition the owner-occupants sign an agreement (RW 10-27) that is made a part of claim for payment and states:

- Displacee understands the amount of the advance payment is not necessarily the same as what displacee may be entitled to when acquisition price of dwelling is determined.
- Displacee will refund to the Department the amount of the payment that is greater than displacee would otherwise be paid after acquisition price is determined.

When replacement housing is built or rehabilitated, payments are made only when the unit is completed, DS&S, and occupied by the displacee. The District may make partial payments on an exception basis when such action is deemed necessary for reasonable relocation activity. In doing so, the District must take reasonable safeguards to avoid erroneous payments.

- Advanced Differential Payment - determined in the same way as other purchase differentials, except the maximum offer shall be used in place of the amount the Department paid for the acquired dwelling.

- Interest Differential Payment - computed in the normal manner, except it is based on the number of remaining months after the effective date of an OP.

- Incidental Expense Payment - calculated as described in Section 10.09.08.00.

Restitution may be paid in cash, credited against purchase price in a negotiated settlement, or made as stipulated in a judgment.

If displacee qualifies for a larger housing payment than the amount advanced, the additional amount is paid after Final Order of Condemnation is recorded.

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A claim for advance payments is one that is approved by the Region/District prior to the displacee meeting the entitlement conditions (10.08.02.00). The Region/District can approve advance payments only if funds are required and displacee has:

- Opened escrow for replacement property or entered into a rental agreement for replacement property.
- The replacement property has passed the DS&S inspection.
- Assigned the funds to the escrow company or landlord (10-EX-9).
- Signed a statement agreeing to occupy the replacement dwelling within 30 days of close of escrow, or date certain for rental properties.
- Signed the Agreement for a PD Advance (90-day Owner-Occupant) (RW 10-27).

Advance payments are allowed under certain conditions but the Region/District should take reasonable safeguards to ensure that the displacee will still be able to complete the relocation with the balance remaining of the move/RHP, and that the Department will be able to retrieve advance monies if there is a change in the displacee's planned relocation (e.g., refund from escrow accounts, advances to landlords, deposits for moving equipment). The Region/District should not advance any relocation funds for work that is not associated with the rental or purchase of replacement property, or with the movement of personalty.

One of the obvious risks with any advance money is that negotiations for the replacement property will fall through. Monies advanced to bring a property into compliance with DS&S standards or to acquire a site for construction of a replacement property is a huge risk and should not be considered.

It is strongly recommended that in the situation above, advance monies for a RHP should only occur if the site is already acquired, the approved construction loan is in place, and the loan and advance payment would be sufficient to complete construction to satisfy DS&S criteria.

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10.08.07.01 Assignment of Funds

Displacee may assign part or all of claim to another as long as it is related to the relocation or replacement property. Assignment of Funds are usually an advance of relocation funds for renting or purchasing replacement property. Sometimes a displacee will request an assignment of funds to pay a vendor directly for work already performed, such as:

- Pay moving company expenses.
- Repay loans for securing the replacement property.
- Pay any direct relocation expense, including rehabilitating replacement unit.

Relocation payments are not assignable for obligations, such as general debts and rent owed to former landlord.

All parties (displacee as Assignor, person/company receiving the funds as Assignee) must sign the Assignment of Funds form before the payment can be processed.

When an Assignment is used, claim schedules and checks are made payable to the designated person or company (Assignee) for account of the displacee. The Assignee's mailing address must be shown. The RAP Agent should ensure that the amount of the assignment is credited against the displacee's total replacement RHP, and indicate the balance remaining for possible future payments.

10.08.08.00 Assignment of Advanced Funds into Escrow

Replacement Housing Payments can be placed in trust or into an escrow (through a bank or escrow office) at displacee's option. Escrow accounts are usually opened for the purchase of a replacement property but an escrow account can be established for the lease or rental of a replacement property. Escrows for a lease or rental may be necessary to distribute periodic RD payments over $10,000, or as a condition by the landlord in order to qualify the displacee for the rental unit (10.04.23.01).

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The following procedures must be completed prior to processing an assignment of advance funds into escrow:

1) Perform DS&S inspection of replacement property.
2) Have the displacee and escrow officer sign the Assignment of Funds.
3) Displacee must sign a statement agreeing to occupy the replacement property (RW 10-45).
4) Escrow officer must read and acknowledge the letter of instruction regarding the use of the funds. (Use 10-EX-9 and 10-EX-11 as sample letters.)

10.08.09.00 Check Delivery

Accounting shall mail payment directly to the payee designated on the Payee Data Sheet unless the RAP Agent designates otherwise. Typical situations for the RAP Agent to arrange for delivery of the payment via mail or personal service are:

- Funds deposited into an escrow account and RAP Agent needs to review instructions with escrow officer prior to releasing the check.
- Monies were ordered in advance but cannot be released until the displacee complies with the requirement to actually occupy the replacement property.
- DDC-R/W, or designee, authorizes an employee with no prior involvement to make personal delivery to the displacee.

Personal delivery should be on an exception-only basis. No one directly involved in relocation of a displacee may personally deliver payment [23 CFR 710.304(p)(ii)].

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PROCESS FOR STANDARD CLAIM FORM

Perform DS&S inspection

- No later than 5 days after learning that replacement property has been selected.

Complete claim form

- Verify names of displacees that should appear on claim form against Occupancy Certification Form (RW 10-25). Use full names.
- No one may sign a claim for displacee(s), except where otherwise determined by law.
- Only one eligible displacee must sign to make claim valid, except all eligible displacees must sign claim when warrant will be made payable to only designated displacees. In this case, payment box should reflect only those paid, together with designation "sole claimant(s)."
- If benefits are split, make a note in margin that another claim exists or is pending.

Prepare claim package

- Attach all documentation provided by displacee needed to support the claim.
- Review the claim (RW 10-26) for propriety of payments (e.g., eligibility, amount of payment, and timeliness of fulfilling all qualifying conditions).
- Approve payment on face of original claim form.
- Securely staple all documentation relative to one claim form into a claim package with claim form on top. If applicable, include the completed Assignment of Funds (10-EX-9 or 10-EX-10).
- Prepare the Payee Data Record in accordance with Accounting Guidebook.
- Payee Data Record STD. 204 must be completed and attached to each claim form for any payee other than the displacee (i.e., moving companies and escrow companies). Note: If claims have been paid to this company before, it is not necessary that they complete a new Payee Data Record.

Approval

- Obtain appropriate approval of claim from RAP Senior.
- Process approved claim for payment through P&M office. P&M will review coding for accuracy, ensure STD. 204 is attached, and all necessary signatures have been obtained.

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Submit for Payment

- P&M forwards the payment package (RW 10-5) to RW Accounting Office to process payments. Should be submitted within 5 working days of Senior RAP Agent's approval.
- RW Accounting will issue/mail revolving check within 5 days of receiving payment package. The Accounting Office will make payment out of the Department's Revolving Fund and will reimburse the Fund in a timely manner.

10.08.10.00 Deductions from Payments [49 CFR 24.403(a)(6)]

The Region/District must deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. Relocation payments are separate from other obligations, and, even if the displacee is a tenant of the Department, deductions from a relocation payment to satisfy delinquent rent or any other debt besides advanced relocation payments is not permitted.

10.08.11.00 Notice of Denial [49 CFR 24.207(e)]

If the Region/District disapproves all or part of a claim submitted by the displacee, or refuses to consider the claim on its merits because of untimely filing or other grounds, the displacee must be notified in writing within 30 days of receipt of the claim that is being denied. The displacee must also be notified of their right to appeal the Region/District's determination.

10.08.12.00 Receipt of Cash from Displacees

The Department's general policy is that RAP Agents are not to receive cash from displacees. If it is absolutely necessary to receive cash, the Agent must immediately notify the RAP Senior. A written acknowledgment must be given to displacee and must contain the date, amount, purpose, and signatures of both displacee and Agent. In addition, the discussion between RAP Agent and RAP Senior must be noted in the RAP diary and signed by both parties.

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10.08.13.00 Collection of Overpayments

If a RAP overpayment is discovered, the RAP Senior must submit a written request to Accounting to establish an accounts receivable bill. Accounting should be advised of the:

- Name and address of person to be billed.
- Amount of the overpayment that needs to be reimbursed.
- Project identification [Co-Rte-PM-Parcel].
- Explanation of the miscalculation that resulted in the overpayment (e.g., incorrect data used in calculating the mortgage differential). Note: The explanation will probably be provided to the displacee so special care should be used in providing a clear explanation.

Accounting then sets up a proper account and bills the displacee. However, the RAP Agent should notify the displacee in advance that a bill for an overpayment is forthcoming to eliminate any misunderstandings.

If the overpayment is not collected and further efforts are expected to be fruitless, the account balance is discharged in accordance with provisions in the Property Management Chapter.

10.08.14.00 Over Encumbrances

If the RD is paid in installments, the total entitlement is encumbered when the first installment is paid.

The RAP Agent should track the installments to ensure that any portion of the RD that is not fully expended can be disencumbered. Such cases may occur when the displacees:

- Die prior to the end of the 42-month subsidy period.
- Elect to use only a portion of the remaining entitlement for a down payment on a replacement dwelling.
- Fail to submit a claim for the balance of the RD even after repeated attempts by the RAP Agent to locate or encourage the displacee.

Disencumbrance requests are processed through the Region/District P&M office.

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10.08.15.00 Payments Not Considered Income [49 CFR 24.209]

Relocation payments cannot be:

- Considered as income for Federal or State income tax purposes.
- Considered as income or resources to any recipient of public assistance (Government Code Sections 7269 and 7269.1) or Social Security benefits.
- Attached through a court action or by a public agency. (Section 690.8a of the Code of Civil Procedure, Sections 17300, 17401, and 17409 of the Welfare and Institutions Code.) Note: In bankruptcy situations, the Department must advise Trustees of any possible relocation payments.

10.08.16.00 Duplication of Payments [49 CFR 24.3]

No person can receive any payment under the Uniform Act if that person receives another payment under Federal, State, or local law that is determined to have the same purpose and effect as the relocation payment. FHWA does not require the Region/District conduct an exhaustive search for such payments, only avoid creating a duplication based on the Region/District's knowledge at the time a payment is computed.

The claim forms include a certification that the displacee will not accept reimbursement or compensation from any other public agency for any expense reimbursed by the Department.

Where their employer has advised displacee that their place of employment is being changed, the displacee may be entitled to certain moving and relocation payments from the employer. If the employer is another public agency, the displaced person/employee may not claim duplicate relocation payments from the Department and the employer.

When the potential for duplication relocation payments exists, such as in hardship acquisitions or a payment for goodwill, the RAP Senior will obtain whatever information is needed (e.g., verification from employer, goodwill appraisal) to ensure there is no duplication of payment.

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10.09.00.00 - APPEALS

10.09.01.00 General

The Department shall promptly review relocation assistance appeals in accordance with the requirements of this section as mandated by 49 CFR 24.10(a).

10.09.01.01 Right to Appeal

The right to appeal shall be described in all RAP written documents that are distributed at public hearings or to individual displacees. The right to appeal shall also be mentioned whenever verbal presentations on relocation assistance are made at public hearings.

On relocation calls, the RAP Agent shall explain how to make an appeal and give the following information to displacee:

- Displacee has the right to appear personally at all hearings.
- Right to appeal relates only to RAP and not to the market value of the property or to the terms of the Right of Way Contract.
- An appeal decision will be issued in writing within 60 days of reviewing all material necessary to render an opinion.
- Relocation Assistance Appeal Form will be provided to displacee upon request (RW 10-6).
- Displacee has the right to pursue legal action after completing the appeal process.

The appeal form (RW 10-6) shall be made available to the displacee via the RAP Agent, in the RAP package, or from the Department's Right of Way intranet site.

10.09.02.00 Appealable Actions [49 CFR 24.10(b)]

Any aggrieved person may file a written appeal with the Department in any case in which the person believes that the Department has failed to properly consider the person's application for relocation assistance. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a relocation payment required under the Uniform Act.

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Additionally, persons determined to be ineligible for relocation benefits because of their U.S. residency status (10.01.10.00), or because the relocation is temporary (10.10.05.00), may file an appeal.

10.09.03.00 Time Limit [49 CFR 24.10(c)]

The displacees must file an appeal within six months of the last day of the deadline for submitting a claim for moving or replacement housing payment (10.08.03.00). When the displacee vacates the acquired property, the RAP Agent should provide a letter to the displacee advising of the time periods to occupy replacement property, file claims for reimbursement, and to file an appeal.

If the person was not required to relocate, or was determined not be eligible for relocation benefits, the appeal must be filed within six months of the Region/District's initial determination of eligibility.

The Region/District can extend the time period for anyone to appeal if there is a good cause.

10.09.04.00 Filing of Appeal

A person who is dissatisfied with any aspect of their relocation assistance may request a Relocation Appeal in writing or by form (RW 10-6) with the RAP Senior. The form (RW 10-6) will be sent to the HQ R/W Relocation Appeals Board Secretary, who will log it in and provide a copy to the Region/District.

If the appeal is submitted directly to the Region/District, the RAP Senior will forward it directly to HQ R/W Relocation Appeals Board Secretary. If the matter is related to any of the items listed under 10.09.07.00, the matter must be resolved by the Statewide Relocation Appeals Board (Board). All other matters may first be reviewed by the Region/District Review Panel (Panel).

The RAP Senior shall review all requests for an appeal and ensure that the person's issue is related to relocation assistance, eligibility, or entitlement. If the appeal is related to some other aspect of the right of way process (appraised value, acquisition process, or renting from property management), the RAP Senior will refer the matter to the appropriate function, and advise the person in writing that the matter has been referred to another R/W Senior.

If the matter is clearly related to relocation, the RAP Senior initiates the process to conduct a Region/District Review Panel. The RAP Senior must

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immediately send the person (appellant) a letter advising them of the appeal process and time frame (see Table 10.09-A).

10.09.05.00 Region/District Review Panel

The RAP Senior will immediately notify the Supervising R/W Agent that an appeal has been received and that the RAP Senior will conduct an internal review with at least two other agents familiar with RAP, and the Agent assigned to the RAP file.

The agents will review the issues presented in the Request and either concur or not concur with the appellant's issues. If the Panel concurs, the Supervising R/W Agent must notify the appellant in writing of the Region/District's decision and actions that will be taken to remedy the matter. A copy of this letter must be sent to the RAP Appeals Board Secretary in HQ R/W.

If the Panel does not concur with all issues presented in the Request, then the matter is referred to the Board. The appellant must be notified by the Supervising R/W Agent, in writing, of the following:

- The Panel's decision, citing applicable rules and regulations.
- That the matter is being referred to the "Statewide Relocation Appeals Board," and a hearing will be scheduled by HQ R/W.
- The right to representation, right to review the file, and right to submit other documentation to be included in the appeals package, or presented at the hearing.

The RAP Senior must submit the complete Appeals Package (see Table 10.09-B) to HQ R/W RAP within 15 days of the notification to the displacee.

10.09.06.00 Right to Representation and Review of Files [49 CFR 24.10(d) (e)]

A displacee has the right to be represented by legal counsel or another representative in connection with the relocation appeal, but solely at their own expense. The appellant also has the right to present oral and written evidence to the Statewide Relocation Appeals Board.

The Department must allow the displacee the opportunity to inspect and copy all materials pertinent to the appeal, except materials which have been classified as confidential or subject to the Privacy Act. The District shall classify

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the following materials as confidential and shall not allow the appellant to inspect or copy them.

- RAP file diaries.
- Correspondence to and from the Legal Division.
- Additional materials that the Legal Division determines to be confidential and unavailable to the appellant, on a case-by-case basis.

The RAP Senior can impose reasonable conditions on the person's right to inspect (such as time, place, and time period). Prior to the displacee's inspection of the file, the Legal Division must first review the entire RAP file and the appeals package to determine which material is confidential and which is not.

The Region/District may charge reasonable fees for any copied material in accordance with Departmental policy.

10.09.07.00 Statewide Relocation Appeals Board

The Statewide Relocation Appeals Board will hear all relocation matters referred by the Region/District Review Panel, and all appeals on matters related to the following:

- Constructive occupancy (10.01.03.06).
- Consequential displacement (10.01.03.07).
- Loss of eligibility due to sale of excess or rescinded route property or due to suspended routes (10.10.02.00).
- Promissory Estoppel (10.01.04.00).
- Claim for Reestablishment Payment when displacee has also received a payment for Loss of Goodwill.

10.09.08.00 RAP Appeals Package

The RAP Senior must submit the RAP Appeals Package to HQ R/W RAP Appeals Board Secretary before the hearing can be scheduled. The package must be page-numbered and exhibits labeled before it can be copied by HQ R/W. The HQ R/W RAP Appeals Board Secretary will ensure the package contains only excerpts of the diaries, and may discuss certain documents with the Legal Office before requesting copies. After copies are made, the HQ R/W RAP Appeals Board Secretary will send the RAP Senior enough copies for the Senior, the RAP Agent, the Appellant, the Appellant's attorney, and other parties as appropriate. The RAP Senior will then advise the Appellant, in

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writing, that the hearing has been scheduled, and include a copy of the RAP Package.

Table 10.09-A
RELOCATION APPEAL PROCESS

Step	Responsible Unit	Process
1	RAP Senior	Immediately reviews the "Request for a Relocation Appeal" within 5 days of receipt, and decides to: 1) refer to another function, 2) hold an internal hearing, or 3) refer immediately to Statewide Appeals Board. Advises Appellant of RAP Senior's determination within 5 days of receipt of appeal request. Copy of appeal request and letter to appellant is sent to HQ R/W RAP.
2a		If Panel concurs with the appellant, advises both HQ R/W and the appellant of the findings within 10 days of initial receipt.
2b		If Panel does not concur, forwards a complete Appeals Package to the Board for a hearing. Must be received in HQ R/W within 10 days of Panel's decision.
3	HQ R/W	Reviews the Appeals Package, and immediately determines if the matter should be resolved by a full Board or just a Hearing Officer.
3a		Schedules a hearing within 10 days of receipt of the package. Hearing should be scheduled within 45 days of appellant's Request.
3b	Appeals Board	Conducts the hearing and provides a written decision within 45 days of final submission of all evidence and testimony.

10.09.09.00 Statewide Level Hearing

"The Agency official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not have been directly involved in the action appealed."
[49 CFR 24.10(h)]

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The Director of Transportation designates a Statewide Relocation Appeals Board and/or Hearing Officer to investigate appeals and make written recommendations to the Director or designee.

Upon receipt of the Appeals Package from the Region/District, the Appeals Board Secretary (HQ R/W) will meet with the Hearing Officer (an attorney from the Department's Legal staff) to determine if the appeal is complex or non-complex. The most complex appeals will be resolved by a full Board; all others will be resolved by a single Hearing Officer.

A hearing will be scheduled at a time and location that is convenient for the Board, the Region/District, and the appellant, including appellant's attorney and/or witnesses.

10.09.09.01 Scope of Review [49 CFR 24.10(f)]

In deciding an appeal, the Board must consider all pertinent justification and other material submitted by the Appellant and the Region/District, and all other available information that is needed to ensure a fair and full review of the appeal [49 CFR 24.10(f)].

The RAP Senior and Agent will be present at the hearing to explain relocation procedures and replacement valuation processes. Since the Appeals Hearing Officer or Board will consider such factors as work consistency and quality at the hearing, the presence of relocation assistance and/or housing valuation personnel to provide knowledgeable and professional testimony will expedite the process.

If the hearing results in the need for additional valuation analysis or other relocation assistance appeal investigations, the parties must respond with due diligence to the Board's request.

10.09.09.02 Determination and Notification After Appeal [49 CFR 24.10(g)]

The decision of the Director, or designee, and the Hearing Officer's or Board's recommendation are provided to the appellant and the Region/District. If the full relief requested by appellant has not been granted, the appellant is advised of their right to seek judicial review. Statements in the letter from the Director, or designee, to appellant such as "a representative of the Department will assist you in preparing and filing your claim" shall be construed by the District as an instruction.

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10.09.10.00 Appellant's Travel Expenses

Payment of appellant's travel expenses is in accordance with rules applicable to State employees and the following:

- No expenses are paid if travel distance is 50 miles or less from appellant's current residence to the hearing site (by the most direct route, not airline).

- No expenses are paid to anyone other than the appellant(s) - no lawyers, friends, witnesses, or family. Payment is limited to those persons who have the right to relocation benefits or have appealed to be declared eligible for benefits.

- Per diem expenses of eligible appellants are paid on the basis of current Board of Control rules and regulations.

- A single appellant receives the same per diem expenses as a State employee on an incurred basis.

- For husband and wife appellants, the second person's per diem expenses are limited to the standard reimbursement rate for meals.

- For roommates, business partners, etc., each appellant is entitled to claim full per diem rates with appropriate documentation of separate accommodations.

- Mileage expenses are paid on the basis of the cost of normal round-trip airfare or established Board of Control rate per mile for use of appellant's private car, whichever is less.

Only expenses incurred to appear before a formal Appeals Board or Hearing Officer are eligible for payment. Informal meetings and such do not qualify an appellant for payment of any expenses.

All appellant expense claims are charged to the project (Phase 2 EA).

10.09.11.00 Resubmission of Appeals

If appellant has not performed those acts necessary to establish eligibility pursuant to prescribed procedures and the appeal has been heard and denied, no additional appeals are permitted until appellant has established such eligibility. After appellant has established eligibility, appellant shall be allowed one additional appeal.

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10.09.12.00 Payment of Approved Claims

Copies of the decision and recommendation shall be attached to any claim for payment submitted pursuant to an appeal decision.

Table 10.09-B
APPEAL PACKAGE

Category	Specifics
Memo from Region/District RAP Senior to HQ R/W RAP - Appeals Board Secretary	• Background of events leading up to the appeal. • Region/District's Internal Review Panel - Decision detailing the disposition of the appeal with the reasons for its position.
Appellant's Request for a Relocation Appeal - form or letter	• Include copies of any supporting documents submitted by Appellant.
Basic Identifying Data	• County, Route, Parcel Number(s), Expenditure Authorization, Appraisal Report Number. • Name of property owner if other than appellant and street address of property acquired.
Replacement Property Data	• Street address and photographs. • DS&S Inspection Report (if applicable).
Basic Acquisition Data (up to date of appeal)	• Date of First Written Offer, Date R/W Contract signed on behalf of State, Closing Date of Acquisition Escrow. • Effective Date of Right of Entry or Order for Possession. • Final Order of Condemnation.
Dates affecting eligibility not provided elsewhere	• Acquisition/occupancy of acquired property by appellant. • Date appellant vacated property. • Date appellant purchased/occupied replacement property. • Trust deeds. • Trust deed notes, if increased interest payments are involved.

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Table 10.09-B

APPEAL PACKAGE (Continued)

Category	Specifics
Data pertinent to payment calculation if the payment is in dispute and copies of Replacement Housing Valuation Reports	• Cost of replacement property. • Price paid or offered on purchase of property. • Replacement rental rates. • Actual rental rates. • Economic rental rates. • Interest rates. • Remaining trust deed balance. • New trust deed amount. • Certified copy of buyer's closing statement.
Copies of Appraisal Form RW 7-9	• Include related pages describing the subject property.
Status of any other relocation payments to appellant	• Information such as dates and amounts claimed but not paid or not yet claimed.
Information on any other potential claimant residing in the unit	
Correspondence	• Copies of letters or other correspondence pertinent to the issue(s) being appealed.
Diary notes	• Typed excerpts from acquisition or relocation diaries pertinent to the issue(s) being appealed marked confidential.
Basis for revised payment if the amount of replacement housing or rental payment is the issue and there is a significant change in the amount of such payment	• Tabulate comparable properties used in the determination by address and show most probable sales price or rental rate. Indicate if comparables are comparable or superior to subject as to location, size, quality, and condition. Provide a narrative review discussing comparability of replacement properties and covering elements of a comparable replacement dwelling.
Reference to Chapter Section(s) or 49 CFR 24 Sections that apply to Appellant's issues	

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10.10.00.00 - OTHER RELOCATION ISSUES LAST RESORT HOUSING - CONSTRUCTION, EXCESS AND RESCINDED ROUTES, REHAB AND DEMOLITION, TEMPORARY RELOCATION

10.10.01.00 Last Resort Housing Determination [49 CFR 24.404(a)]

Whenever a project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants ($31,000 and $7,200 respectively) and payments exceeding the limits are not cost-effective for the Department nor the appropriate solution for the displacee, the Department can consider alternate measures under Last Resort Housing, as justified:

1) On a case-by-case basis, for good cause, which means appropriate consideration has been given to:

    i. The availability of comparable housing in the program or project area; and
    ii. The resources available to provide comparable replacement housing; and
    iii. The individual circumstances of the displaced person; or

2) By a determination that:

    i. There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole; and
    ii. A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and
    iii. The method selected for providing last resort housing assistance is cost effective, considering all elements which contribute to total project or program costs. (Will project delay justify waiting for less expensive replacement housing to become available?)

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10.10.01.01 Methods of Providing Comparable Replacement Housing [49 CFR 24.404(c)]

Methods of providing comparable replacement housing under LRH include the construction of new replacement dwellings and rehabilitating existing replacement dwellings. RARF 2001-04 describes how to implement LRH in those rare cases when the Region/District has obtained approval to use other methods to provide comparable replacement housing.

10.10.02.00 Excess, Rescinded Route, Design Change, and Suspended Route Relocation Procedures

Relocation legislation and procedures were written to cover the typical acquisition process where property is acquired and cleared for an impending construction project. It was not foreseen that property previously acquired for construction would be returned to private ownership with improvements and occupants intact. As a result, policies and procedures developed for typical construction projects must be modified for disposal of excess parcels acquired as such or created by design change or rescinded route property. Exceptions to usual rules are necessary to deal equitably with the displacement situation.

See RARF 2001-06 for further guidance.

10.10.02.01 Land Acquired as Excess

Owner-occupants and inherited tenants of improvements located on land acquired as excess (uneconomic remnants or economic remainders) are not automatically eligible for relocation benefits. The occupants must be displaced by a project as determined by the Region/District. Displacement can be as a result of a consequential displacement determination, a future highway project, requirement for a mitigation parcel, or a rehabilitation/demolition project.

Occupants on the excess should enter into a Rental Agreement through Property Management and may be allowed to remain on the property until sold as excess, subject to their occupancy.

The exact relocation circumstances of each excess parcel must be determined before the initiation of negotiations. Inappropriate service of

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notices and delivery of RAP packages may create relocation assistance obligations for which the Department would not otherwise be responsible.

Tenants or owners that are in occupancy prior to the Department's control of the property will be eligible for relocation benefits if the Department requires them to move at any time until title from the State is transferred to another. Determination of benefits will be based on their occupancy status (tenant or owner) at the time the State obtained control of the property, but their benefits will be based on the needs (income, occupants, rental rate) at the time of determination.

An owner who sells the economic remainder to the Department at their request and is later displaced, is entitled to benefits as this is not considered a voluntary transaction under 49 CFR 24.101(a).

10.10.02.02 Rescinded Route or Design Change - Excess Land

Government Code Section 54235, et seq., provides specific requirements for disposal of surplus residential properties on or after January 1, 1980. Section 54238.3 provides that the provisions of Section 54235, et seq., shall not apply to properties declared to be surplus on or after January 1, 1984, except for Route 7 (710) in Los Angeles. Section 54238.3 provides certain relocation benefits to occupants who are forced to move because of disposal of rescinded route excess land.

10.10.03.00 Rehabilitation or Demolition Relocation Procedures

All occupants displaced from dwelling units because of rehabilitation or demolition may be eligible for some relocation benefits (see Table 10.10-A). The extent of available benefits depends upon the income levels of the occupants and whether the displacement is temporary or permanent. The Department's obligation under the law is to ensure displaced occupants are provided either temporary or permanent replacement housing that is affordable and adequate for their housing needs.

Displacement costs necessary for temporary moves during rehabilitation of a structure may be paid to occupants of any structure regardless of the status of the project.

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10.10.03.01 Entitlements

Tenants temporarily displaced from properties under the guidelines above are entitled to:

- A written 90-day Notice, except in emergency situations where the notice period is not possible. Notices will include an outline of the benefits available.
- Relocation advisory services.
- The right to reoccupy the vacated unit after rehabilitation.
- An adequate temporary replacement dwelling.
- Actual and reasonable moving expenses, both to the temporary replacement dwelling and back to the rehabilitated dwelling.
- Appropriate rent differential payments, if eligible.

Tenants who are persons or families of low or moderate income are eligible for rent differential payment if:

- Their rental rate is increased by the Region/District to an amount exceeding 30% of their gross monthly income within one year of completion of rehabilitation of their dwelling, provided the average annual income falls within the guidelines of the HUD Low Income Chart (10-EX-44), or,
- They move to a permanent replacement dwelling as a result of a rehabilitation program affecting their dwelling.

Rental Differentials, not to exceed $7,200, shall be based on the difference in cost between an available adequate replacement dwelling (including utilities) and existing rent (including utilities) in the rehabilitated or demolished dwelling or affordable rent (30% of gross monthly income), whichever is higher.

10.10.03.02 Types of Displacement

Tenant displacements may be permanent or temporary to other State or privately owned housing or to a motel unit for a few days while their unit is made habitable. Although RAP eligible tenants have the right to return to their former dwelling, they should be encouraged to make their move a permanent one to avoid a double moving expense payment.

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10.10.03.03 Charging Procedures

Relocation forms used for processing claims and payments will be clearly identified as "Rehabilitation RAP."

Expenditures under this procedure are normally not eligible for Federal participation.

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Table 10.10-A
PAYMENT FOR DISPLACEMENTS DUE to REHAB or DEMO

Type of Displacement	Payment Eligibility	Methods of Payment
1. Short-term Displacement of Occupants Only (No Furniture Moving)	Occasionally, because of the interruption of services or other inconveniences resulting from rehabilitation, it is expedient to provide tenants with temporary housing in overnight-type accommodations. Payment of reasonable, additional expenses to occupants may be made provided the expenses are necessary and are documented with paid receipts.	• Rental offsets. • Bank draft purchase vouchers through District Accounting Offices. • Normal RAP claim procedures for actual, reasonable moving expenses.
2. Temporary Move to Other Department Housing	The rental rate of the temporary unit is market rate or amount of pre-rehabilitation rent of the unit being rehabilitated, whichever is less. Tenants are eligible for actual moving expenses both ways, including any necessary furniture storage and travel expenses. The normal RAP room count schedule may be used. If temporarily displaced tenants return to the rehabilitated unit, their new rental rate shall not reflect the increase in market value attributable to rehabilitation for a period of one year following date they occupy the unit. Adjustments may be made to the rental rate in effect prior to rehabilitation in accordance with the Rental Rate Policy.	See #1 above. The Fixed Moving Schedule, excluding a dislocation allowance, may also be used.

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Table 10.10-A
PAYMENT FOR DISPLACEMENTS DUE to REHAB or DEMO (Continued)

Type of Displacement	Payment Eligibility	Methods of Payment
3. Temporary Move to Private Housing	Tenants are eligible for actual, reasonable moving expenses both ways, including necessary furniture storage and travel expenses. RDs are paid (up to 90 days) directly to the landlord when the monthly rent exceeds pre-rehabilitation rent. If temporarily displaced tenants return to the rehabilitated unit, their new rental rate shall not reflect the increase in market value attributable to rehabilitation for a period of one year following date they reoccupy the unit. Adjustments may be made to the rental rate in effect prior to rehabilitation in accordance with the Rental Rate Policy.	See #1 above.
4. Permanent Displacement to Other Department Housing	Tenants are eligible for actual, reasonable moving expenses. The rental rate for the Department's replacement unit shall be the lower of: • Market rate and average monthly utility costs. • Rental rate of the unit tenant was displaced from. The replacement rental rate shall remain in effect for one year, except that normal rent increases by application of the Rental Rate Policy may be made.	• Rental offsets. • Bank draft purchase vouchers through the Accounting Office. • Normal RAP claim procedures for actual cost or room count method, including dislocation allowance.

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Table 10.10-A
PAYMENT FOR DISPLACEMENTS DUE to REHAB or DEMO (Continued)

Type of Displacement	Payment Eligibility	Methods of Payment
5. Permanent Displacement to Private Housing	All tenants are eligible for actual, reasonable moving expenses. RDs, not to exceed $7,200, are paid to low and moderate income tenants whose rent, at time of displacement, is increased to more than 30% of their income. The Department is not responsible for additional differential payments in those cases where displacees' rent is increased following occupancy of the replacement property. The calculation is based on available adequate replacement dwellings (30% of gross income).	Moving costs may be paid by the methods shown in #1 above. RDs, not to exceed $7,200, are paid for a maximum of 42 months and are handled by District RAP personnel through normal RAP claim procedures.

10.10.04.00 Suspended Routes

Occasionally, it is necessary to suspend acquisition and relocation activities on proposed routes due to budgetary constraints. When funding is withdrawn on a project, it is often necessary to immediately and formally withdraw any outstanding offers to purchase the properties. Relocation activities may also be affected.

When project activities resume, the person occupying the parcel when the "new" initiation of negotiations occurs becomes the eligible party for relocation benefits.

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10.10.05.00 Temporary Relocations

49 CFR 24.2(a)(9)(ii)(D) defines a person not required to relocate permanently as a "person not displaced," and thus not eligible to receive relocation benefits under the Uniform Act. There are circumstances where the acquisition of real property (including access rights and temporary construction easements) takes place without the intent or necessity that an occupant of the property relocate permanently, but must do so temporarily during construction.
Example: The project will restrict access to adjacent residential homes for a three-month period during construction. These persons, though not considered displaced under the Uniform Act, must be treated fairly and equitably, and will receive the following:

- Storage of personal property that they do not want to leave in the residence or business during their absence.
- Moving expenses to relocate personal property they will need at the temporary location.
- Increased housing costs for a DS&S temporary location. (House payment is $500 per month, but the monthly rent for a furnished apartment for three months is $600 per month. The increased cost is $100 per month.)

Note: Acceptable temporary locations may be an unfurnished studio or even a hotel room.

The Region/District and the displacee should agree on what personal property should be stored, relocated, or left at the site.

They are not entitled to:

- Replacement Housing Payments (e.g., PD, MD, IE, or RD).
- Comparable replacement properties, including an increased room count because of the number of occupants (e.g., from a 3-bedroom to a 5-bedroom because there are 10 occupants).
- Nonresidential moving expenses (beyond minimal movement of personalty to the temporary location), e.g., Reestablishment or In-Lieu Payments.

Any person who has been temporarily relocated for a period beyond one year is considered permanently displaced and entitled to permanent relocation benefits.

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10.10.05.01 Temporary Residential Lodging due to Nighttime Construction Work

Because of the nature of some construction projects, construction activities may be carried out 24 hours a day. Unusually high nighttime noise or dust levels may affect residents in close proximity to the construction work. When this situation occurs, it may be in the best interest of the Department to arrange for temporary lodging of residential occupants.

All costs are handled as "construction costs" to be managed and funded by the Office of Construction.

The RAP Agent will assist in making arrangements for temporary lodging due to nighttime construction work. The RAP Agent shall charge time to a "Phase 3" Expenditure Authorization and expenses to a "Phase 4" Expenditure Authorization.

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10.11.00.00 – DELEGATIONS

10.11.01.00 Delegations of Authority

As referenced in Section 2.05.01.00, the delegation matrix for Relocation Assistance is noted below. The delegation matrix reflects the associated policy and RW Manual reference for each delegated item. The matrix also distinguishes whether an item is delegated to the District or Headquarters (HQ) level, along with the lowest level of sub-delegation authorized.

Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	**RW Manual Section**	**Responsibility**	**Delegation**	**Lowest Level of Sub-Delegation**
49 CFR §24.2(a)(9)	10.01.03.06	Displaced Person – Constructive Occupancy	District	Supervising RW Agent
49 CFR §24.4(b)	10.01.12.01	Assurances, Monitoring, and Corrective Action	HQ	Supervising RW Agent
49 CFR §24.205	10.02.01.00	Approval of the RID That Addresses the Project Impacts on Potential Displacees	District	RIM/RIS: Senior RW Agent RIR: Supervising RW Agent
49 CFR §24.203(c)(4) 49 CFR §24.204(b)	10.03.13.00	Urgent Need to Vacate Without 90-Day Notice (Health & Safety Issues)	District	Supervising RW Agent
49 CFR §24.301(g)(1)	10.04.02.00 10.04.02.01	Payment for More than One Move/Transportation Costs Beyond 50 Miles (Residential)	District	Supervising RW Agent
49 CFR §24.301(g)(4)	10.04.02.00 10.05.05.07	Storage of Personal Property for Longer Than 12 Months	District	Senior RW Agent

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Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	**RW Manual Section**	**Responsibility**	**Delegation**	**Lowest Level of Sub-Delegation**
49 CFR §24.401(d)(3)	10.04.12.04	Mortgage Differential Based on Higher Than Prevailing Rates	District	Senior RW Agent
49 CFR §24.401(e)(9)	10.04.13.00	Eligibility for Other Than Normal Expenses for the Incidental Expense Payment	District	Senior RW Agent
49 CFR §24.401(b)(c) 49 CFR §24.402(b)(c)	10.04.-08.00 10.04.23.00 10.04.26.03	Payment Methods (Residential)	District	Senior RW Agent
49 CFR §24.402(b)(2)(i)	10.04.17.03	Use of Economic Rent in a "Little or No Rent" Situation	District	Senior RW Agent
49 CFR §24.403(a)(5)	10.04.30.00	Determination of More Than One Household in a Dwelling	District	Senior RW Agent
49 CFR §24.301(g)(1) 49 CFR §24.301(g)(17)	10.05.05.01 10.05.05.13 10.05.24.00	Payment for Transportation and Search Costs Beyond 50 Miles (Non-Residential)	District	Senior RW Agent
49 CFR §24.301(g)(12)	10.05.05.11	Use of Professional Services for a Complex Move	District	Up to $10K: Senior RW Agent Over $10K: Supervising RW Agent

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Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	**RW Manual Section**	**Responsibility**	**Delegation**	**Lowest Level of Sub-Delegation**
49 CFR §24.301(i)	10.05.06.02	Denial of Relocation Benefits if Non-Residential Displacees Fail to Comply with Notification Requirements	District	Supervising RW Agent
49 CFR §24.305(e)	10.05.19.01	Use of Alternate Tax Years for an In-Lieu Payment	District	Senior RW Agent
49 CFR §24.301(g)(7)	10.05.25.00	Approval of Grace Period for Business Displacee to Remain in State-Acquired Property	District	Supervising RW Agent
49 CFR §24.2(a)(8)	10.06.05.01	Submit Waiver of DS&S Standards Request to FHWA	HQ	Senior RW Agent
49 CFR §24.403 49 CFR §24.102(n)	10.06.12.04	Approval of Replacement Housing Valuations - Dual Role	District	Senior RW Agent
49 CFR §24.102(n)	10.06.12.05	Approval of Replacement Housing Valuations (Excluding Last Resort Housing)	District	Senior RW Agent
49 CFR §24.102(n)	10.06.12.05	Approval of Replacement Housing Valuations – Last Resort Housing	District	Up to $50K: Supervising RW Agent Over $50K: RW Manager

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Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	**RW Manual Section**	**Responsibility**	**Delegation**	**Lowest Level of Sub-Delegation**
49 CFR §24.403(a)(1) 49 CFR §24.404(a)	10.06.13.00	Preparation of RHV When Three Comparables are Not Available	District	Senior RW Agent
49 CFR §24.403	10.06.18.00	Carve-Out for Replacement Property	District	Senior RW Agent
49 CFR §24.403 49 CFR §24.404	10.06.19.00	Special Valuation – New Construction	District	Supervising RW Agent
49 CFR §24.403 49 CFR §24.404	10.06.20.00	Special Valuations Required	District	Senior RW Agent
49 CFR §24.404	10.07.11.00	Rental of Vacant Mobile Home Spaces	District	Within Displacement Park: Senior RW Agent To Other Park: Supervising RW Agent
49 CFR §24.401(a)(2) 49 CFR §24.207(d)	10.08.02.00 10.08.03.00	Time Extensions to Occupy Replacement Housing and File Claim	District	Senior RW Agent
49 CFR §24.207(b)	10.08.06.00	Expeditious Approval of Claim – Non-Last Resort Housing	District	Senior RW Agent
49 CFR §24.207(b)	10.08.06.00	Expeditious Approval of Claim –Last Resort Housing	District	Up to $50K: Supervising RW Agent Over $50K: RW Manager

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Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	**RW Manual Section**	**Responsibility**	**Delegation**	**Lowest Level of Sub-Delegation**
49 CFR §24.207(b)	10.08.06.00	Expeditious Approval of Claim – Moving Claims	District	Up to $50K: Senior RW Agent Over $50K: Supervising RW Agent
49 CFR §24.207(c)	10.08.07.00	Advance Relocation Payments	District	Supervising RW Agent
49 CFR §24.207(b)	10.08.09.00	Approval for Personal Delivery of RAP Checks	District	Senior RW Agent
49 CFR §24.10(c)	10.09.03.00	Time Limit to File Appeal (Extensions)	District	Senior RW Agent
49 CFR §24.10(b)	10.09.05.00	Region/District Review Panel - Relocation Appeals	District	Supervising RW Agent
49 CFR §24.l0(b)	10.09.07.00	Statewide Relocation Appeals Hearing Officer or Board	HQ	Supervising RW Agent
49 CFR §24.207(c)	10.05.02.00	Advance Relocation Payments (Non-Residential)	District	Supervising RW Agent
49 CFR §24.2(a)(6)(ix)	10.06.05.01	Subsidized Housing When Requires Fewer Bedrooms Than What Had Been Required by Section 8	District	Supervising RW Agent
49 CFR §24.2(a)(6)(iii)	10.06.05.01	More Than 2 People Per Bedroom	District	Supervising RW Agent

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- External Exhibits site
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Forms are located online:

- External Forms site
- Internal Forms site (internal Caltrans link)

(REV 8/2018)

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