
REPLACEMENT HOUSING VALUATIONS - FHWA Guidance

Excerpts from FHWA Q&A and Non-Regulatory Supplements

ISSUE: Computing a replacement housing payment when a higher and better use is indicated [49 CFR 24.401(c)(2)].

In computing a replacement housing payment for an owner-occupant whose residential property to be acquired is appraised for a higher and better use (usually as if vacant), the acquisition cost of the displacement dwelling used in the computation is the value of the dwelling occupied by the owner plus the value of that portion of the acquired land representing a typical residential lot for the area. The dwelling and land values are based on the Agency's approved appraisal.

ISSUE: Use of properties that are not decent, safe, and sanitary as a basis for a replacement housing payment [49 CFR 24.403(a)].

In situations where there are limited comparable replacement properties, displacing agencies may base a replacement housing payment on an available property having minor DS&S deficiencies, provided that the deficiencies can be easily corrected for a nominal amount. Use of non-DS&S properties with minor deficiencies should be primarily limited to situations where a windfall or excessive expenditure can be avoided and/or in situations where housing of last resort would otherwise be needed to relocate the displaced person into comparable housing. The payment computation should reflect the cost to correct the deficiency. Such housing should not be used to meet the "make available" requirement of Section 24.204(a) in the case of a forced displacement.

ISSUE: Major exterior attributes [49 CFR 24.403(a)(2)].

Alternate methods of determining the replacement housing payment cannot be used in cases where the comparable replacement dwelling lacks the major exterior attribute of the displacement dwelling. Section 24.403(a)(2) requires that the value of the attribute be subtracted from the acquisition price of the displacement dwelling for purposes of computing the payment if the comparable replacement dwelling lacks the major exterior attribute.

ISSUE: Computing a replacement housing payment for a displaced person who relocates to a previously owned property [49 CFR 24.401(c)(4) and 49 CFR 24.403(c)(6)].

When a displaced person relocates to a previously owned dwelling, or retains the displacement dwelling and moves it to the remainder or to a previously owned site, "current fair market value for residential use" will be used as the basis for determining the cost of the replacement property, rather than "historical cost." It is not expected that an expensive or sophisticated appraisal report be secured to determine the current fair market value of the pre-owned property. A minimum valuation method may be used by the agency for determining the value of the property. The agency should ensure that its valuation is reasonable and supportable, as its determination could be appealed under 49 CFR 24.10.

ISSUE: Housing Subsidies.

Paragraph (7) in the definition of comparable replacement dwelling requires that a comparable replacement dwelling for a person who is not receiving assistance under any government housing program before displacement must be currently available on the private market without any subsidy under a government housing program. Public housing unit may qualify as a comparable replacement dwelling only for a person displaced from a public housing unit; a privately-owned dwelling with a housing program subsidy tied to the unit may qualify as a comparable replacement dwelling only for a person displaced from a similarly subsidized unit or public housing; a housing program subsidy to a person (not tied to the building), such as a HUD Section 8 Existing Housing Program Certificate or a Housing Voucher, may be reflected in an offer of a comparable replacement dwelling to a person receiving a similar subsidy or occupying a privately-owned subsidized unit or public housing unit before displacement.

However, nothing in this part prohibits an Agency from offering, or precludes a person from accepting, assistance under a government housing program, even if the person did not receive similar assistance before displacement. However, the Agency is obligated to inform the person of his or her options under this part. (If a person accepts assistance under a government housing program, the rental assistance payment under Sec. 24.402 would be computed on the basis of the person's actual out-of-pocket cost for the replacement housing.)

ISSUE: Cost effective methods of providing comparable replacement housing.

The use of cost effective means of providing comparable replacement housing is implied throughout the subpart. The term "reasonable cost" is used here to underline the fact that while innovative means to provide housing are encouraged, they should be cost-effective. Section 24.404(c)(2) permits the use of last resort housing, in special cases, which may involve variations from the usual methods of obtaining comparability. However, it should be specially noted that such variation should never result in a lowering of housing standards nor should it ever result in a lower quality of living style for the displaced person. One example might be the use of a new mobile home to replace a very substandard conventional dwelling in an area where comparable conventional dwellings are not available. Another example could be the use of a superior, but smaller decent, safe and sanitary dwelling to replace a large, old substandard dwelling, only a portion of which is being used as living quarters by the occupants and no other large comparable dwellings are available in the area.

ISSUE: Recomputation of Replacement Housing Payment offer based on new comparable after the expiration of the 90-day notice [49 CFR 24.204(a)].

The replacement housing payment offer can be recomputed whenever the comparable dwelling used to compute that replacement housing payment offer is no longer available. The agency should not recompute a replacement housing payment offer solely because the 90-day notice has expired if the displaced person has, in good faith, made a commitment or has expended significant time and effort to find replacement housing based on the original offer. However, if the displaced person has not made a good faith effort to find replacement housing, a recomputation of the replacement housing payment offer, if warranted by current market conditions, would be appropriate after a reasonable period of time. If the recomputation results in a lower payment offer, the agency must document its support and justification for the revised offer to avoid appearing coercive.

ISSUE: Cultural lifestyles.

Even if it is "culturally" a part of the lifestyle for six children to share a bedroom, it would not be acceptable to base the computation of the replacement housing payment on a dwelling that would require the six children to share a bedroom. The comparable must reflect appropriate local housing codes or the requirements of 24.2(f). Displaced persons would have to insist on non-DSS replacement housing and then the displacing agency would have to request a waiver of the DS&S requirements from the funding agency under 49 CFR 24.7.

ISSUE: Purchasing and occupying a motor home to meet the requirements for “spend to get.”

A motor home or a boat capable of providing living accommodations may be considered a replacement dwelling if:

- (A) The motor home or boat is purchased and occupied as the “primary” place of residence,
- (B) It is located on a purchased or leased site and connected to all necessary utilities for functioning as a housing unit on the date of the displacing agency’s inspection, and
- (C) The dwelling, as sited, meets all local, State, and Federal requirements for a DS&S dwelling. (It should be noted that the regulations of some local jurisdictions will not permit the consideration of these vehicles as DS&S dwellings.)

A motor home or a boat designed to provide living accommodations may also meet the requirement of renting a replacement dwelling if it is occupied as the “primary” place of residence and qualifies under (B) and (C) above.
