

MANUAL CHANGE TRANSMITTAL

RW 0001 (REV 10/2007)

XX

R/W MANUAL CHANGE

RWMC- 217

PROCEDURAL HANDBOOK
(1984 Edition)

RWPH-__-__-__

TRANSMITTAL#__

TITLE: RELOCATION ASSISTANCE	APPROVED BY:  DONALD E. GREBE	DATE ISSUED: AUG - 1 2012 Page 1 of 9
SUBJECT AREA: CHAPTER 10 – RELOCATION ASSISTANCE	ISSUING UNIT: OFFICE OF RIGHT OF WAY PROJECT DELIVERY	
SUMMARY OF CHANGES: <ul style="list-style-type: none"> • Updates Sections 10.01.00.00, 10.04.00.00, 10.05.00.00, and the Table of Contents. • Revises Exhibits 10-EX-11, 10-EX-19, 10-EX-27, 10-EX-28, 10-EX-31, 10-EX-34, 10-EX-35, 10-EX-36, 10-EX-39, 10-EX-40, 10-EX-41, 10-EX-42, 10-EX-43, 10-EX-45, 10-EX-46, 10-EX-47, 10-EX-48, 10-EX-49, and 10-EX-50. Deletes Exhibits 10-EX-20 and 10-EX-44, and reuses the two exhibit numbers. Adds new Exhibits 10-EX-1, 10-EX-2, 10-EX-20, 10-EX-33, and 10-EX-44. Updates the Exhibits Table of Contents. 		

PURPOSE/BACKGROUND

49 Federal Code of Regulations Part 24 (49 CFR 24) was updated in 2005. The Final Rule, providing implementation guidance, was issued on January 4, 2005. This manual was updated in 2006 to reflect those changes, including the Final Rule guidance. Subsequently, a number of questions were raised on a national level with regard to implementation of the updated regulations. The Federal Highway Administration (FHWA) has provided a Question and Answer (Q&A) link on their Web site to address these issues. This manual revision clarifies procedures based on the Q&As as well as updates policy and procedures based on best practices.

Where applicable, general typographical errors were corrected. References to the effective date of “February 4, 2005” from the previous manual revision have been dropped. Manual references have been corrected as necessary.

Twenty-four (24) exhibits were revised, deleted, and added. Detailed information for these exhibits is shown under “Procedures.”

PROCEDURES**Sections**

- 10.01.03.04 Revises the term Post-Offer occupant to Subsequent occupant. Clarifies that Non-tenured and Subsequent residential occupants are eligible for a rent differential (RD); however, Subsequent occupants must be in occupancy on the date the Department obtains possession of the displacement property in order to receive any monetary benefits.

Sections

- 10.01.03.06 – Table 10.01-A Updates table to visually demonstrate the various benefits available by occupancy type. For Subsequent occupants, if the RD is calculated at zero, then no funds are available to convert to a down payment if they elect to purchase a replacement dwelling.
- 10.01.08.01 Updates section to concur with Section 10.03.04.00. Under certain circumstances, a Notice of Intent to Acquire (NIA) may be issued to a tenant or lessee.
- 10.01.09.06 Updates manual to reflect payment for move of personal property after the death of a displacee is now allowable under 49 CFR 24.403(f). Replacement Housing Payments (RHPs) continue to not be payable under these circumstances.
- 10.01.10.00 Clarifies that the Conditional Entitlement Letter (CEL) follows the Notice of Eligibility (NOE). The CEL outlines specific amounts of the displacee may be eligible to receive.
- 10.01.12.04 Effective date of “February 4, 2005” was dropped.
- 10.01.13.00 Manual reference was changed.
- 10.01.14.03 Provides link to FHWA Web site.
- 10.01.14.05 Clarifies that diary entry needs to reflect date displacees moved out, as opposed to the date of vacation. Manual reference was changed.
- 10.01.14.08 Adds reference to new exhibit, “Relocation File Closeout Checklists” (10-EX-1).
- 10.01.14.10 Clarifies that FHWA accepts the annual report on the Department’s fiscal year, rather than the federal fiscal year. Deletes reference to defunct tracking system and adds Right of Way Management Information System (ROWMIS) and Advantage.
- 10.04.01.00 Clarifies that relocation benefits are determined as of the date of Initiation of Negotiations (ION), which may be either the Notice of Intent to Acquire (NIA) or the First Written Offer (FWO). Also clarifies that Non-tenured occupants may receive relocation benefits prior to close of escrow, under certain circumstances. Subsequent occupants may not receive any relocation payments until after the Department has control of the displacement property.
- 10.04.01.01 Revised dollar payments in “Example” to reflect the updated Fixed Moving Schedule (FMS) of December 15, 2011.
- 10.04.02.02 Clarifies that residential displacees are not eligible to receive a move payment based upon a Move Cost Finding (MCF).
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Sections

- 10.04.02.03 The FMS has been updated as of December 15, 2011. It is updated approximately every three (3) years. If the FHWA Web site contains more recent data, use the FHWA guidelines to determine the FMS payment.
- 10.04.02.04 Updates FMS chart and removes MCF as a possible residential move option.
- 10.04.02.10 Removes MCF as a possible residential move option.
- 10.04.02.12 Deleted previous Subsection 10.04.02.12, "Move Cost Finding (MCF)."
Renumbered "Storage" to Subsection 10.04.02.12.
- 10.04.03.00 Updates and clarifies the main types of residential displacees and what type of Replacement Housing Payment (RHP) they may or may not be eligible for. Non-tenured (less than 90-day) occupants and Subsequent occupants (occupy after ION) are both eligible for an RHP, with certain restrictions.
- 10.04.04.00 Adds language related to barrier free housing for replacement housing purposes, per 49 CFR 24.2(8)(vii).
- 10.04.06.00 Unlawful occupants are not counted as part of the family for purposes of calculating the RHP. Clarifies how to count bedrooms for purposes of calculating the RHP, whether an owner or a tenant, and whether present legally in the U.S. or not. This is based on guidance from FHWA.
- 10.04.12.04 A 24.7 waiver from FHWA is no longer required for the Department to allow a Mortgage Differential where the mortgage interest rate is higher than prevailing rate. The District RAP Senior forwards request for approval to HQ RAP Senior with appropriate documentation. The HQ RAP Senior will make a determination as to whether the mortgage interest rate charged is actual, reasonable and necessary. District will document the diary with the decision.
- 10.04.12.06 Adds the Web link for the FHWA Mortgage Interest Differential Calculator (MIDC), which may also be used to calculate a Mortgage Differential (MD) payment.
- 10.04.12.12 A reverse mortgage is considered a first mortgage lien and is therefore eligible for determining an MD.
- 10.04.14.00 When a residential owner converts a PD to an RD, if the PD is zero, then the RD is zero. No new Replacement Housing Valuation (RHV) is necessary.
- 10.04.15.00 New subsection: Adds information regarding placing a down payment into escrow when Last Resort Housing (LRH) guidelines apply to the situation.
Remaining subsections were all renumbered.
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Sections

- 10.04.16.00 Changed FWO to ION. Added Web link for most up-to-date HUD low income chart. Deleted reference to HUD low income chart exhibit.
- 10.04.17.00 Changed FWO to ION. Added Web link for most up-to-date HUD low income chart. Deleted reference to HUD low income chart exhibit.
- 10.04.17.03 The Relocation Agent may verify claims are reasonable to support expenses incurred by requesting supporting documentation.
- 10.04.18.00 For those on subsidized housing, RAP Agent should explain the ramifications of going off government housing, should the displacee have to do so.
- 10.04.19.00 Clarifies that the HUD low income chart is usually updated February of each year. Provides a Web site to access the most up-to-date chart.
- 10.04.20.00 Clarifies that relocation benefits vest at the time of the ION. Provides Web site to access list of income exclusions per FHWA.
- 10.04.21.00 Non-tenured occupants are now entitled to an RD, whether they are considered low income or not. If the non-tenured occupant does not fall under low income provisions, their RD will be calculated based upon their displacement rent. The low income calculation will still apply in those situations where income meets the requirements.
- 10.04.26.00 Add that eligible non-tenured occupants may convert their RD to a down payment (DP). Subsequent occupants are not eligible for this payment. If their RD is zero, then their DP would be zero.
- 10.04.26.07 Add subsequent occupants as being eligible for Incidental Expenses (IE) under LRH provisions.
- 10.04.29.00 Provides guidance on what is considered a dwelling when encountering displacees legitimately living on multi-use/mixed use property.
- 10.04.30.01 Clarifies Example 1 and adds Example 2 for multiple households of replacement property.
- 10.04.32.00 Changes verbiage to categorize subsequent occupants separately from non-tenured occupants. Non-tenured occupants receive the same benefits as 90-day occupants, only under LRH provisions.
- 10.05.03.00 Changes FWO to ION.
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Sections

- 10.05.05.03 Deletes reference to modifications to the utilities in the replacement property may also be eligible for reimbursement. This section only covers utility and service lines being connected to the personalty under a business move.
- 10.05.05.05 Connection to available utilities from the right of way line to the improvements at the replacement site may be allowed. Costs for repairs, modifications or improvements to the replacement real property are covered under Reestablishment Expenses.
- 10.05.05.10 Clarifies eligible reimbursement for licenses, permits, fees and certifications. Provides clearer examples.
- 10.05.05.13 Reference made to new exhibit, “Business Search Expense Summary” (10-EX-2).
- 10.05.09.00 Deleted previous Subsection 10.05.09.00, “Move Cost Finding.”
Renumbered “Adjustments to the Move” to Subsection 10.05.09.00.
Remaining subsections are all renumbered.
- 10.05.09.01 Clarifies loss of tangible personal property to include reconnecting and in “as is” condition.
- 10.05.12.00 Removed effective date of “February 3, 2005.”
- 10.05.12.01 Corrected reference.
- 10.05.13.00 Corrected reference.
- 10.05.14.00 Adds reference to Notice of Eligibility – Nonoccupant Owner Leasing Space to Others (10-EX-50). Adds full text of definition of “contributes materially.” Specifies nonrecurring closing costs and other items that FHWA has determined to be ineligible expenses under this scenario.
- 10.05.16.00 Corrected reference.
- 10.05.19.01 Changes FWO to ION.
- 10.05.19.04 Updates examples to reflect more current dates.
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	Exhibit No.	Exhibit Title
New	10-EX-1	Relocation File Closeout Checklists Sample closeout checklists that may be adopted by Regions/Districts.
New	10-EX-2	Business Search Expense Summary Sample Business Search Expense Summary that may be adopted by Regions/Districts.
Revised	10-EX-11	Escrow Instructions (Format) Work Sheet Added ability to use funds deposited into escrow for nonrecurring closing costs as approved by the Department and mortgage interest differential as calculated and approved by the Department.
Revised	10-EX-19	Replacement Housing Valuations Under Example 2, deleted “Segregated Opinion of Value Method” for calculating the maximum RHP. This now conforms to what is written in the manual.
Deleted	10-EX-20	Rental Credit Statement Rental credits are no longer allowed to offset payments due to Property Management. This exhibit has been deleted and replaced with the “Replacement Housing Valuation Request.”
New	10-EX-20	Replacement Housing Valuation Request Sample RHV request that may be adopted by Regions/Districts. (Reused Exhibit Number 10-EX-20 for new exhibit.)
Revised	10-EX-27	Processing MSA Claims A link to the most up-to-date list of eligible carriers has been added to the exhibit.
Revised	10-EX-28	Timelines for Residential Occupants to Occupy and File Claim Updates time frames to current dates. Clarifies difference between 90-day occupants who are owners versus tenants.
Revised	10-EX-31	Reminder Letter to Displacee Re: Time Frames Clarify that displacees have 24 months from the date they either vacated or received their final acquisition payment, depending on their status, to file a relocation appeal. Under Item 3, clarified that eligible residential displacees are covered for certain benefits, whether they are tenured or not.
New	10-EX-33	Nonresidential Letter to Displacee Re: Available Assistance Adds a letter specifically to nonresidential displacees outlining assistance available to them under the federal regulations.

	Exhibit No.	Exhibit Title
Revised	10-EX-34	FHWA Guidance on Determining Multiple Households Updates exhibit to show correct CFR reference.
Revised	10-EX-35	Nonresidential Interview Checklist Removes the term “(FIRST RAP CALL)” from the title, as this checklist may be utilized much earlier than that. (Previous title was “Nonresidential Interview Checklist (First RAP Call)”)
Revised	10-EX-36	Guidelines for Developing Moving Specifications Clarifies that it is the displacee that employs a consultant, if needed, to assist in developing moving specifications.
Revised	10-EX-39	Notice of Eligibility - 90-Day and Non-Tenured Occupant(s) Per the 2005 Final Rule, Non-Tenured Occupants now receive the same benefits as 90-Day Occupants, under Last Resort Housing guidelines. (Previous title was “Notice of Eligibility - 90-Day Occupant”)
Revised	10-EX-40	Conditional Entitlement Letter - 90-Day and Non-Tenured Occupant(s) Per the 2005 Final Rule, Non-Tenured Occupants now receive the same benefits as 90-Day Occupants, under Last Resort Housing guidelines. Under Item 1.A. - added blank line in front of “rooms” to specify number of rooms. (Previous title was “Conditional Entitlement Letter - 90-Day Occupant”)
Revised	10-EX-41	Notice of Eligibility - Subsequent Occupant(s) Subsequent (previously Post-Offer) Occupants must wait until the Department has control of the property before they move, in order to be eligible for relocation payments. Subsequent Occupants also receive relocation benefits under Last Resort Housing guidelines. (Previous title was “Notice of Eligibility - Non-Tenured”)
Revised	10-EX-42	Conditional Entitlement Letter - Subsequent Occupant(s) Subsequent (previously Post-Offer) Occupants must wait until the Department has control of the property before they move, in order to be eligible for relocation payments. Subsequent Occupants also receive relocation benefits under Last Resort Housing guidelines. Under Item 1.A. - added blank line in front of “rooms” to specify number of rooms. (Previous title was “Conditional Entitlement Letter - Non-Tenured”)

	Exhibit No.	Exhibit Title
Revised	10-EX-43	Notice of Eligibility – Business, Farm or Nonprofit Organization Adds fees as a moving expense, per updated 49 CFR 24. Removes licenses, fees, permits, feasibility studies, soil testing and marketing studies from the Reestablishment section of the notice, as these are now covered under moving or move-related expenses.
Deleted	10-EX-44	HUD’s Low Income Chart Removes this chart, since a link to the most current information is now provided in the manual.
New	10-EX-44	Last Resort Housing Guidelines Adds some Last Resort Housing guidelines as outlined in Relocation Assistance Reference File (RARF) 2001-04. (Reused Exhibit Number 10-EX-44 for new exhibit.)
Revised	10-EX-45	Conditional Entitlement Letter - 180-Day Owner-Occupant Clarifies that the displacee must “spend to get” the full price differential. Adds language to inform displacee of their right to appeal the District’s decision(s). Under Item 1.A. - added blank line in front of “rooms” to specify number of rooms.
Revised	10-EX-46	Notice of Eligibility - Personal Property Only Removes redundancy in wording regarding the word “reasonable.” Deletes “reestablishment expenses,” as Personal Property Only displacees are not eligible for them under 49 CFR 24. Adds language to inform displacee of their right to appeal the District’s decision(s).
Revised	10-EX-47	Notice of Eligibility - 180-Day Owner-Occupant Mobile Home Adds language to inform displacee of their right to appeal the District’s decision(s).
Revised	10-EX-48	Conditional Entitlement Letter - 180-Day Owner-Occupant Mobile Home Clarifies that the displacee must “spend to get” the full price differential. Adds language to inform displacee of their right to appeal the District’s decision(s).
Revised	10-EX-49	Notice of Eligibility - 180-Day Owner-Occupant Adds language to inform displacee of their right to appeal the District’s decision(s).
Revised	10-EX-50	Notice of Eligibility - Nonoccupant Owner Leasing Space to Others Removes expenses related to reestablishment, as Nonoccupant Owners Leasing Space to Others are not eligible for them under 49 CFR 24. Adds language to inform displacee of their right to appeal the District’s decision(s).

EFFECTIVE DATE

Immediately.

MANUAL IMPACT

- Remove the superseded pages and insert the attached pages in the Manual.
- Record the action on the Revision Record.

REVISION SUMMARY

<u>Chapter</u>	<u>Remove Old Pages</u>	<u>Insert New/Revised Pages</u>
	Remove the following in its entirety:	Replace with the following in its entirety:
10 – Sections	Table of Contents (REV 11/2009) 10.01.00.00 (REV 12/2005) 10.04.00.00 (REV 12/2005) 10.05.00.00 (REV 12/2005)	Table of Contents (REV 5/2012) 10.01.00.00 (REV 5/2012) 10.04.00.00 (REV 5/2012) 10.05.00.00 (REV 5/2012)
10 – Exhibits	Table of Contents REV 11/2009 ----- ----- 10-EX-11 10-EX-19 (REV 12/2005) 10-EX-20 – DELETE ----- 10-EX-27 (NEW 5/2001) 10-EX-28 (REV 5/2001) 10-EX-31 (NEW 12/2001) ----- 10-EX-34 (NEW 9/2003) 10-EX-35 (NEW 1/2005) 10-EX-36 (NEW 1/2005) 10-EX-39 (NEW 12/2005) 10-EX-40 (NEW 12/2005) 10-EX-41 (NEW 12/2005) 10-EX-42 (NEW 12/2005) 10-EX-43 (NEW 12/2005) 10-EX-44 (NEW 12/2005) - DELETE ----- 10-EX-45 (NEW 12/2005) 10-EX-46 (NEW 12/2005) 10-EX-47 (NEW 12/2005) 10-EX-48 (NEW 12/2005) 10-EX-49 (NEW 12/2005) 10-EX-50 (NEW 1/2006)	Table of Contents REV 5/2012 10-EX-1 (NEW 5/2012) 10-EX-2 (NEW 5/2012) 10-EX-11 (REV 5/2012) 10-EX-19 (REV 5/2012) ----- 10-EX-20 (NEW 5/2012) 10-EX-27 (REV 5/2012) 10-EX-28 (REV 5/2012) 10-EX-31 (REV 5/2012) 10-EX-33 (NEW 5/2012) 10-EX-34 (REV 5/2012) 10-EX-35 (REV 5/2012) 10-EX-36 (REV 5/2012) 10-EX-39 (REV 5/2012) 10-EX-40 (REV 5/2012) 10-EX-41 (REV 5/2012) 10-EX-42 (REV 5/2012) 10-EX-43 (REV 5/2012) ----- 10-EX-44 (NEW 5/2012) 10-EX-45 (REV 5/2012) 10-EX-46 (REV 5/2012) 10-EX-47 (REV 5/2012) 10-EX-48 (REV 5/2012) 10-EX-49 (REV 5/2012) 10-EX-50 (REV 5/2012)

CHAPTER 10

RELOCATION ASSISTANCE TABLE OF CONTENTS

10.01.00.00	GENERAL
01.00	Relocation Assistance Program
01.01	Purpose
02.00	Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970 (as amended)
02.01	Title 49 Code of Federal Regulations Part 24 (49 CFR 24)
03.00	Displacements
03.01	Displaced Person [49 CFR 24.2(a)(9)(i)]
03.02	Persons Not Displaced [49 CFR 24.2(a)(9)(ii)]
03.03	Tenured Occupants
03.04	Non-Tenured and Subsequent Occupants
03.05	Unlawful Occupancy [49 CFR 24.2(a)(29)]
03.06	Constructive Occupancy
03.07	Consequential Displacement
03.08	Persons Not Lawfully Present in the United States
04.00	Promissory Estoppel
05.00	Global Settlements
06.00	Certificates of Occupancy
07.00	Moves Prior to Initiation of Negotiation
08.00	Initiation of Negotiations
08.01	Notice of Intent to Acquire
08.02	Move Prior to Control of the Property
09.00	Relocation Benefits
09.01	Advisory Assistance [49 CFR 24.205(c)]
09.02	Specific Advisory Services
09.03	Eligibility for Advisory Assistance
09.04	Moving Costs
09.05	Replacement Housing Payments (RHP)
09.06	Relocation Payments
10.00	Relocation Assistance Program Package
11.00	Certification of U.S. Residency Requirement [49 CFR 24.208(a) and (b)]
11.01	Benefit Computation [49 CFR 24.208(c)]
11.02	Validity of Certification for U.S. Residency [49 CFR 24.208(d)]
11.03	Documentation [49 CFR 24.208(e)]
11.04	Denial of Benefits [49 CFR 24.208(g)]
11.05	Return of Payment
11.06	Hardship Situations
12.00	Coordination of Right of Way Activities
12.01	Responsibilities of Headquarters Right of Way
12.02	Responsibilities of Region/District
12.03	Region/District Functional Responsibilities
12.04	Responsibility of the Region/District Appraisal Branch
12.05	Responsibilities of the Region/District Acquisition Branch
12.06	Responsibilities of the Region/District Property Management Branch
13.00	Single Agent (\$10,000 and Under)

- 10.01.00.00 GENERAL (Continued)**
 - 14.00 Region/District RAP Branch
 - 14.01 Training
 - 14.02 Right of Way Certifications
 - 14.03 Policy and Procedural Manuals
 - 14.04 RAP File
 - 14.05 RAP Diary
 - 14.06 Records
 - 14.07 Tickler Files
 - 14.08 RAP File Closeout
 - 14.09 Confidentiality of Records [49 CFR 24.9(b)]
 - 14.10 Reports [49 CFR 24.9(c)]
 - 14.11 Accounting Information
 - 15.00 Employee Relocation Assistance Program (ERAP)

- 10.02.00.00 RELOCATION IMPACT DOCUMENTS**
 - 01.00 Relocation Planning
 - 02.00 Purpose
 - 03.00 Environmental Document
 - 04.00 Relocation Impact Documents
 - 05.00 Minimum Requirements
 - 05.01 Project Identification
 - 05.02 Displacement and Replacement Areas
 - 05.03 Number and Type of Occupants Impacted
 - 05.04 Availability of Replacement Property
 - 05.05 Contact With Data Sources, Property Owners, and Displacees
 - 05.06 Relocation in Compliance with Uniform Act
 - 05.07 Survey Methods
 - 06.00 Complex Projects
 - 07.00 Accountability
 - 08.00 Annual Reviews and Updates
 - 09.00 Record Retention
 - 10.00 Right of Way Planning Document
 - 11.00 Lead Time
 - 12.00 Re-Rent Policy
 - 13.00 Field Offices
 - 14.00 Advanced Acquisition

- 10.03.00.00 RELOCATION NOTICES and OCCUPANCY CERTIFICATIONS**
 - 01.00 Notices
 - 02.00 General Information Notice [49 CFR 24.203(a)]
 - 03.00 Legal Residency Requirement to Obtain Benefits
 - 04.00 Notice of Intent to Acquire (NIA)
 - 04.01 Notice of Intent to Acquire - Tenants
 - 05.00 Certificates of Occupancy
 - 06.00 U.S. Residency Certification
 - 06.01 Securing the U.S. Residency Certification Prior to Issuing a Notice of Eligibility
 - 07.00 Notices of Eligibility [49 CFR 24.203(b)]
 - 08.00 Reminder Notice
 - 09.00 90-Day Notices [49 CFR 24.203(c)]
 - 09.01 Timing
 - 09.02 Content
 - 09.03 90-Day Information Notice

10.03.00.00 RELOCATION NOTICES and OCCUPANCY CERTIFICATIONS (Continued)

- 09.04 Notice to Vacate with R/W Contract
- 09.05 Notice to Vacate with OP
- 10.00 90-Day Notice to Vacate
- 11.00 Notices to State-inherited Tenants
- 12.00 Urgent Need
- 13.00 Notice to Withdraw or Modify Relocation Benefits
- 13.01 Withdrawal of Benefits
- 13.02 Modification of Benefits
- 13.03 Waiver of Relocation Benefits

10.04.00.00 RESIDENTIAL DISPLACEMENTS

- 01.00 Residential Relocation Benefits
 - 01.01 U.S. Residency Requirement for Moving Expenses
- 02.00 Moving and Related Expenses - Residential Entitlement [49 CFR 24.301(b)]
 - 02.01 Transportation
 - 02.02 Types of Moving Payments
 - 02.03 Fixed Moving Schedule [49 CFR 24.302]
 - 02.04 Fixed Moving Schedule (Chart) [Effective December 15, 2011 (updated approximately every three years)]
 - 02.05 Fixed Payment Limitations and Variations
 - 02.06 Moving Service Authorization (MSA)
 - 02.07 Payment for Other Services - MSA
 - 02.08 Requirements for Scheduling Payments - MSA Method
 - 02.09 Actual Reasonable Cost of Move by For-Hire Carriers
 - 02.10 Dislocation Allowance
 - 02.11 Paying the Moving Company
 - 02.12 Storage
- 03.00 Replacement Housing Payments (RHPs)
 - 03.01 Maximum RHP
- 04.00 Inspections of Replacement Dwelling [49 CFR 24.403(b)]
 - 04.01 DS&S Inspections for Others
- 05.00 Inability to Meet Occupancy Requirements [49 CFR 24.403(d)]
- 06.00 U.S. Residency Requirement for RHPs
- 07.00 RHPs - 180-Day Owner-Occupant's Eligibility [49 CFR 24.401(a)]
 - 07.01 180-Day Owner-Occupant RHP [49 CFR 24.401(b)]
 - 07.02 Purchase of Replacement Dwelling [49 CFR 24.403(c)]
 - 07.03 Rehabilitation of Replacement Dwelling
- 08.00 Payment Procedures
- 09.00 Price Differential Calculation
- 10.00 Owner Retention of Displacement Dwelling [49 CFR 24.401(c)(2)]
- 11.00 Previously Owned Replacement Dwellings [49 CFR 24.403(c)(6)]
- 12.00 Mortgage Differential (MD) [49 CFR 24.401(d)]
 - 12.01 MD Factors
 - 12.02 Items Not Eligible for Mortgage Differential
 - 12.03 Determination of Rates, Points, and Fees
 - 12.04 Mortgage Interest Rates
 - 12.05 Points and Origination or Service Fees
 - 12.06 Mortgage Differential Calculation
 - 12.07 Multi-Use Properties - Segregation of MD Payments
 - 12.08 Home Equity Loans [49 CFR 24.401(d)]
 - 12.09 Government Subsidized Loans

10.04.00.00	RESIDENTIAL DISPLACEMENTS (Continued)
12.10	Balloon Payments
12.11	Multiple Mortgages
12.12	Reverse Mortgages
12.13	Adjustable Rate Mortgages (ARM)
13.00	Incidental Expenses (IE) [49 CFR 24.401(e)]
13.01	Incidental Expense Limitations (IE)
13.02	Proof of Payment
13.03	Incidental Expense and Mortgage Financing [49 CFR 24.401(b)(3) and 24.401(e)]
13.04	Mortgage Insurance Premiums (MIP)
13.05	Private Mortgage Insurance (PMI)
14.00	Converting the Price Differential (PD) to a Rent Differential (RD) [49 CFR 24.401(f)]
15.00	Last Resort Housing (LRH) Guidelines
15.01	Last Resort Housing for 180-Day Owner-Occupants
16.00	Replacement Housing Payment For 90-Day Occupants Eligibility [49 CFR 24.402(a)]
16.01	Rent Differential (RD) Offer
16.02	Amount of Payment [49 CFR 24.402(b)(1)]
17.00	Base Monthly Rent [49 CFR 24.402(b)(2)]
17.01	Utilities
17.02	Calculating Utilities
17.03	Little or No Rent [49 CFR 24.402(b)(2)(i)]
18.00	Subsidized Housing
18.01	Section 8 Security Deposits
18.02	Section 8 Comparable Replacement Housing
19.00	Monthly Gross Income
20.00	Income Verification
21.00	Computing the Rent Differential Payment
22.00	Conversion of Payment [49 CFR 24.403(e)]
23.00	Manner of Disbursement [49 CFR 24.402(b)(3)]
24.00	Rent Differential Payment Procedures - Last Resort Housing (LRH)
24.01	Installment Payments
24.02	Subsequent Installments
25.00	RD Payments - Documentation
26.00	Down Payment (DP) [49 CFR 24.402(c)(1)]
26.01	Application of Down Payment (DP) [49 CFR 24.402(c)]
26.02	Conditions (DP)
26.03	Manner of Disbursement (DP)
26.04	Conversion of Payment (RD to DP) [49 CFR 24.403(e)]
26.05	Down Payment into Escrow
26.06	Down Payment to Displacee
26.07	Incidental Expense for 90-Day Occupants and Subsequent Occupants
27.00	Owner-Occupants with Partial Ownership Interests
28.00	State Rental Prior to Acquisition
29.00	Mixed-Use Properties
30.00	Multiple Households of Displacement Property
30.01	Multiple Households of Replacement Property
30.02	Documentation for Multiple Households
30.03	Proration When One Household Splits into Two or More
31.00	Seasonal Residents
32.00	Subsequent Occupants
33.00	Personal Property Only [49 CFR 24.301(e)]

10.05.00.00	MOVING AND RELATED EXPENSES – NONRESIDENTIAL (Business, Farms, and Nonprofit Organizations)
01.00	Relocation Benefits
01.01	Persons Not Lawfully Present in the United States
02.00	Relocation Planning
03.00	First RAP Call
04.00	Advisory Assistance
05.00	Moving Expenses - Eligible
05.01	Transportation of Personal Property
05.02	Disconnecting/Dismantling
05.03	Utility and Service Lines
05.04	Telephone Equipment
05.05	Modifications to Personal Property
05.06	Physical Changes at New Location
05.07	Storage of Personal Property
05.08	Move and Storage Insurance
05.09	Lost, Stolen, or Damaged Property
05.10	Licenses, Permits, Fees and Certifications
05.11	Professional Services [49 CFR 24.301(g)(12)]
05.12	Relettering and Reprinting
05.13	Searching for a Replacement Location [49 CFR 24.301(g)(17)]
05.14	Low Value/High Bulk [49 CFR 24.301(g)(18)]
05.15	Other Moving Expenses
06.00	Certified Inventory
06.01	Fluctuating Inventory
06.02	Notification and Inspection [49 CFR 24.301(h)(12)(i)]
06.03	Monitoring
07.00	Move by Commercial Carrier
07.01	Obtaining Bids
07.02	Bid Adjustments
08.00	Self-Moves [49 CFR 24.301(d)(2)]
08.01	Self-Move Based on the Lower of Two Bids
09.00	Adjustments to the Move
09.01	Loss of Tangible Personal Property [49 CFR 24.301(g)(14)]
09.02	Purchase of Substitute Personal Property [49 CFR 301(g)(16)]
09.03	Cost to Sell Personalty [49 CFR 24.301(g)(15)]
09.04	Value In Place
10.00	Related Nonresidential Eligible Expenses [49 CFR 24.303]
11.00	Personal Property Only [49 CFR 24.301(e)]
12.00	Items Not Eligible for Move
12.01	Ineligible Moving and Related Expenses [49 CFR 24.301(h)]
13.00	Reestablishment Expenses [49 CFR 24.304]
13.01	Reestablishment Payments on the Remainder
13.02	One-Time Advertisement of Replacement Location (Reestablishment)
13.03	Exterior Signing
14.00	Reestablishment Expenses for Non-Occupant Owners
15.00	Ineligible Reestablishment Expenses [49 CFR 24.304(b)]

10.05.00.00	MOVING AND RELATED EXPENSES – NONRESIDENTIAL (Business, Farms, and Nonprofit Organizations) (Continued)
16.00	Small Business In-Lieu Payment [49 CFR 24.305]
17.00	Farm Operation - In-Lieu [49 CFR 24.305(c)]
18.00	Nonprofit Organization - In-Lieu [49 CFR 24.305(d)]
19.00	Calculating the In-Lieu Payment [49 CFR 24.305(e)]
19.01	Using Alternate Tax Years to Calculate an In-Lieu Payment
19.02	Documentation from Displacee
19.03	Processing the Request
19.04	Computing Average Annual Net Earnings
20.00	No Duplication of Payments
21.00	Compensation for Loss of Goodwill
21.01	Loss of Goodwill Procedures
22.00	Notices to Acquisition
23.00	Abandoned Personalty
24.00	Hazardous Material
25.00	Grace Period on Business Property
26.00	Nonresidential Definitions
10.06.00.00	REPLACEMENT HOUSING VALUATIONS
01.00	General [49 CFR 24.204(a)]
02.00	Criteria for Selecting Comparable Replacement Properties
03.00	Comparable Replacement Dwelling [49 CFR 24.2(a)(6)]
04.00	Functionally Equivalent
05.00	Decent, Safe, and Sanitary Dwelling [49 CFR 24.2(a)(8)]
05.01	Waiver of Decent, Safe, and Sanitary Standards
06.00	Barrier Free Housing [49 CFR 24.2(a)(8)(vii)]
07.00	Cost of Comparable Replacement Dwelling [49 CFR 24.402(a)]
08.00	Determining the Cost of Comparable Replacements
09.00	Other Considerations
10.00	Partial Acquisitions
11.00	Last Resort Housing
12.00	Replacement Housing Valuation Report (RHV)
12.01	Date of Valuation
12.02	Report Revisions
12.03	Preparation of the Replacement Housing Valuation
12.04	Approval of the Replacement Housing Valuation - Dual Roles
12.05	Approval of the Replacement Housing Valuation - Authority
12.06	Completing the Report
13.00	Valuation Method
14.00	Selection of Comparables
15.00	Major Exterior Attributes [49 CFR 24.403(a)(2)]
15.01	Carve-out for Major Exterior Attributes
16.00	Computing a Replacement Housing Payment When a Higher and Better Use is Indicated
16.01	Carve-Out for Mixed-Use and Multiple Use Properties
17.00	Carve-Out for Dwelling Site (Oversized Lot) [49 CFR 24.2(a)(11)]
18.00	Carve-Out for Replacement Property
19.00	Special Valuation - New Construction

10.06.00.00	REPLACEMENT HOUSING VALUATIONS (Continued)
20.00	Special Valuations Required
21.00	Rent Differential (RD) Calculations
22.00	Mobile Home Replacement Housing Valuation Issues
22.01	Mobile Home Probable Selling Price
22.02	Replacement Site (Mobile Home)
22.03	Rental Sites (Mobile Home)
22.04	Purchase Sites (Mobile Home)
22.05	Purchase/Rental of Mobile Home and Site
10.07.00.00	MOBILE HOMES
01.00	Applicability [49 CFR 24.501]
02.00	Moving and Related Expenses [49 CFR 24.301(c)]
02.01	Actual Cost of Mobile Home Moves
02.02	Moving Expenses for Personalty
02.03	Additional Actual Costs
03.00	Replacement Housing Payment for 180-Day Mobile Home Owner-Occupants [49 CFR 24.502]
03.01	Price Differential (PD)
03.02	Purchase of Replacement
03.03	Suitable Replacement Sites
03.04	Incidental Expenses
03.05	Mortgage Differential Payment
03.06	Converting PD to RD for 180-Day Mobile Home Owner-Occupant
04.00	Replacement Housing Payment for 90-Day Mobile Home Occupants [49 CFR 24.503]
04.01	Rent Differential (RD)
04.02	Down Payment (DP)
05.00	Replacement Housing Payment Based on Dwelling and Site
05.01	Cost of Comparable Replacement Dwelling
06.00	Initiation of Negotiations
07.00	Person Moves Mobile Home
08.00	Partial Acquisition of Mobile Home Park
09.00	Part Ownership of a Mobile Home
10.00	Mobile Home DS&S Inspections
11.00	Rental of Vacant Spaces
12.00	Mobile Home as Replacement for Conventional Dwelling
10.08.00.00	RELOCATION PAYMENTS
01.00	Eligibility for Payment
02.00	Payment of Benefits
03.00	Time Period to File a Claim [49 CFR 24.207(d)]
04.00	Documentation of Claims [49 CFR 24.207(a)]
05.00	U.S. Residency Certification
06.00	Expeditious Payments [49 CFR 24.207(b)]
07.00	Advance Payments [49 CFR 24.207(c)]
07.01	Assignment of Funds
08.00	Assignment of Advanced Funds into Escrow
09.00	Check Delivery
10.00	Deductions From Payments [49 CFR 24.207(f)]
10.01	Deducting Delinquent Rent

- 10.08.00.00 RELOCATION PAYMENTS (Continued)**
 - 11.00 Notice of Denial [49 CFR 24.207(g)]
 - 12.00 Receipt of Cash From Displacees
 - 13.00 Collection of Overpayments
 - 14.00 Over Encumbrances
 - 15.00 Payments Not Considered Income [49 CFR 24.208]
 - 16.00 Duplication of Payments [49 CFR 24.3]

- 10.09.00.00 APPEALS**
 - 01.00 General
 - 01.01 Right to Appeal
 - 02.00 Appealable Actions [49 CFR 24.10(b)]
 - 03.00 Time Limit [49 CFR 24.10(c)]
 - 04.00 Filing of Appeal
 - 05.00 Region/District Review Panel
 - 06.00 Right to Representation and Review of Files [49 CFR 24.10(d) (e)]
 - 07.00 Statewide Relocation Appeals Board
 - 08.00 RAP Appeals Package
 - 09.00 Statewide Level Hearing
 - 09.01 Scope of Review [49 CFR 24.10(f)]
 - 09.02 Determination and Notification After Appeal [49 CFR 24.10(g)]
 - 10.00 Appellant's Travel Expenses
 - 11.00 Resubmission of Appeals
 - 12.00 Payment of Approved Claims

- 10.10.00.00 OTHER RELOCATION ISSUES - Last Resort Housing - Construction, Excess and Rescinded Routes, Rehab and Demolition, Temporary Relocation**
 - 01.00 Last Resort Housing Determination [49 CFR 24.404(a)]
 - 01.01 Methods of Providing Comparable Replacement Housing [49 CFR 24.404(c)]
 - 02.00 Excess, Rescinded Route, Design Change, and Suspended Route Relocation Procedures
 - 02.01 Land Acquired as Excess
 - 02.02 Rescinded Route or Design Change - Excess Land
 - 03.00 Rehabilitation or Demolition Relocation Procedures
 - 03.01 Entitlements
 - 03.02 Types of Displacement
 - 03.03 Charging Procedures
 - 04.00 Suspended Routes
 - 05.00 Temporary Relocations
 - 05.01 Temporary Residential Lodging due to Nighttime Construction Work

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) and Title 49 Code of Federal Regulations (CFR) Part 24 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, or sex in compliance with Title VI of the Civil Rights Act (42 U.S.C. 2000d, et seq.).

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.

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.

49 CFR 24 was amended on January 4, 2005. The stated purpose clarifies present requirements, meets modern needs, and improves the service to the individuals and businesses impacted by a Federal or federally assisted project while at the same time reducing the burden of government regulations. This Chapter includes all the new requirements contained in the January 2005 amendments.

10.01.03.00 **Displacements**

Any person, household, business, farm, or nonprofit organization displaced by a public project is 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).

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).

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 [49 CFR 24.403(e)] 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 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.

Additionally, owners who sold their property to the Department on a voluntary (or donated) basis or when the Department (or any of its agents) did not have the authority to condemn the property are not entitled to relocation benefits [49 CFR 24.2, 49 CFR 24.101(a)(1) and (2)]. However, the displacement of a tenant on real property that was acquired by the Department on a voluntary, donated, or without the authority of eminent domain, 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.

10.01.03.03 **Tenured Occupants**

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

- 180-Day Owner-Occupant - occupants of the household who have lived in AND owned the residence for at least 180 days immediately prior to the ION.
- 90-Day Owner-Occupant - members of the household who have occupied AND owned the residence for at least 90 days immediately prior to the ION, but less than 180 days.
- 90-Day Tenant - members of the household who have occupied the residence that is owned by someone else, and paid rent to that person 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 and Subsequent Occupants**

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

- Less than 90-day occupant - a tenant or an owner who has not lived in the residence for at least 90 days, but is there 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 always entitled to Advisory Assistance.

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.

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.

Occupancy Type and Time	180-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			Must be in occupancy at COE or date of possession
Advisory Assistance	Yes	Yes	Yes	Yes
Moving Expenses	Yes	Yes	Yes	Yes
Replacement Housing Payments				
A. Price Differential (PD), Mortgage Differential (MD), and Incidental Expenses (IE). Limited to \$22,500 before LRH rules apply.	Yes	No	No	No
B. Rent Differential (RD) Requirement for an Income Certification. Limitations	Yes (in lieu of PD, MD, IE) No RD based on economic rent, but cannot exceed the calculated PD If PD is zero, RD is limited to \$5,250.	Yes Optional - at time of determination	Yes Optional - at time of determination	Yes Optional - at time of determination
OR-				
C. Down Payment (DP) including eligible Incidental Expenses	N/A	Yes If RD is zero, DP is \$5,250	Yes If RD is zero, DP is \$5,250	Yes If RD is zero, DP is zero

Table 10.01-A - Explanation of Residential Benefits by Occupancy

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. Such cases are submitted through HQ R/W to FHWA for review. 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 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.

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 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.

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 initiation of negotiations without jeopardizing their relocation benefits.

Notice of Intent to Acquire to preserve relocation benefits are 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 non-tenured occupants from moving in and possibly receiving benefits, the Region/District should rent the property back from the owner and initiate proceedings to complete the acquisition (including condemnation action).

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 - available to everyone who occupies the real property acquired by the Department.
- Moving Costs - reimbursement for actual, reasonable and necessary expenses. Available to everyone who must move their personal property from the real property acquired by the Department.
- Replacement Housing Payments - 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.

The specific goal of the Advisory Assistance benefit is to minimize the hardships people might experience in adjusting to their relocation. This can be done by providing counseling, advice as to other sources of benefits that may be available, information on Federal and State housing programs, disaster loans, and other programs (e.g., SBA, FHA, HUD).

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.
- Business and farm operators in finding suitable replacement locations to continue operations.

In addition, Advisory Assistance is intended to emphasize that if the comparable replacement properties are located in areas of minority concentration, minority persons should, if possible, also be given opportunities to relocate to replacement properties not located in such areas.

The preferred method is for the RAP Agent to conduct a personal interview with each occupant to determine the relocation needs and preferences of each person being displaced, and explain their possible relocation benefits. 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 properly explain the RAP Program to non-English speaking persons
- information on the availability, purchase prices, and rental costs of comparable replacement dwellings and/or businesses
- assurance that no one will be required to move unless at least one comparable replacement dwelling is made available
- an address, in writing, of the specific comparable replacement dwelling used to establish the maximum replacement housing payment
- inspection criteria that will be used to determine if the replacement property meets the DS&S standards [49 CFR 24.2(a) and (f)]
- transportation for all persons, especially the elderly and handicapped, to inspect housing to which they are referred
- assistance in locating and obtaining a replacement property (residential, business, farm operation, or nonprofit organization), 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

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 such occupancy is permitted by a short-term rental agreement or an agreement subject to termination when the property is needed for a program or project

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 qualified as a "displacee" is entitled to payment of their actual moving and related expenses for all personal property or any property not acquired as real property.

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.

- 180-Day Owner-Occupants may be entitled to an RHP which is comprised of a PD, an IE, and an MD (10.04.07.01).
- 90-Day Occupants and Non-Tenured Occupants (owner or tenant) may be entitled to an RD (10.04.15.01) or a DP (10.04.25.00). Non-Tenured Occupants are only entitled to an RHP if the household income is less than 30% of the probable replacement rent including utilities.

The amount of the PD and the RD is determined by preparing a Replacement Housing Valuation (RHV) (10.06.00.00) that ensures there is a replacement property available on the market that is comparable to the property being acquired by the Department, and meets the DS&S standards established in the Uniform Act (10.06.05.00).

Additionally, the residential occupants must meet certain criteria 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 (10.08.02.00).
- 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 (10.08.03.00).

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 \$22,500 for 180-day owner-occupants and \$5,250 for 90-day/less than 90-day occupants (tenant or owner) before consideration must be given to Last Resort Housing (LRH).

Moving and RHP payments 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.

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 or nonresidential, as appropriate.
 - **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:**
- **Return-addressed Postal Card** - to request claim forms and relocation benefits.
 - **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.

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.

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).

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:

- 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.

10.01.12.02 Responsibilities of Region/District

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

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

(See Region/District Senior Expectations - R/W RAP Web page; and see Section 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.”

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 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 (90- or 180-Day) 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.

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- 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.

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 fixtures 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 or relocation of improvements pertaining to realty. 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.

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- 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.

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. The Move Cost Finding in the SMA \$10K Form is completed in accordance with 10.05.09.00 regardless of whether the personalty is related to a business or a residence. The SMA \$10K Form should have sufficient room to list the minimal personal property being relocated plus perform the calculations for the time and equipment the displacee needs to move the property. 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. See 10.05.10.00 for the process to calculate the cost to move.

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).

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 at: <http://www.fhwa.dot.gov/realestate/ua/index.htm>

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.

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.

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 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 (23 CFR, Part 17, Section 17.5).

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.

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.

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 on a State fiscal year basis (July 1-June 30).

The HQ R/W Planning and Management Office prepares the Statistical Report Form for the 12-month period ending September 30 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 \$22,500 and \$5,250 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.

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.

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.

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.

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.

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 effective date is December 15, 2011. The schedule is also available online at <http://www.fhwa.dot.gov/realestate/fixsch96.htm>. 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).

10.04.02.04 Fixed Moving Schedule (Chart) [Effective December 15, 2011 (updated approximately every three years)]

SCHEDULE A	
(OCCUPANT OWNS FURNITURE)	
Number of Rooms	Payments
1	\$ 685
2	\$ 880
3	\$1,100
4	\$1,295
5	\$1,570
6	\$1,815
7	\$2,090
8	\$2,365
Each additional room	\$ 250

SCHEDULE B	
(FURNITURE PROVIDED BY LANDLORD)	
One room	\$ 450
Each additional room	\$ 85
Dormitory Style rooms (Includes hotel/motel rooms, caretaker facilities, assisted living rooms, and "rooms for rent.")	\$ 125

“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 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.

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 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.

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.
- 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.

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 180-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 owned by an eligible 90-day owner or rented by an eligible 90-day tenant-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.

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 180-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.

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.

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."

10.04.07.00 **RHPs - 180-Day Owner-Occupant's Eligibility [49 CFR 24.401(a)]**

A displaced person is eligible for the RHP for a 180-day homeowner-occupant if the person:

- (1) Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations (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 **180-Day Owner-Occupant RHP [49 CFR 24.401(b)]**

The RHP for an eligible 180-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 \$22,500, then LRH provisions apply.

A 180-day owner-occupant may receive an RD in lieu of the entire RHP (10.04.14.00).

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.

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.

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.

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.

BASIC COMPUTATION - PD	
Type of Replacement	Computation
Purchase of Existing DS&S Replacement Dwelling	<p>The PD is the difference between the acquisition cost of the displacement dwelling and the lesser of the following two amounts:</p> <ul style="list-style-type: none"> • 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	<p>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.</p> <p>If displacee purchases a non-DS&S dwelling on the remainder or other land, the following costs are eligible for reimbursement:</p> <ul style="list-style-type: none"> • 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	<p>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:</p> <ul style="list-style-type: none"> • Cost of an existing comparable replacement dwelling. • Current fair market value of a comparable newly constructed dwelling.
Ownership of Replacement Dwelling Prior to Displacement	<p>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.</p>

Table 10.04-A

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

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 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 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 Web site: <http://www.fhwa.dot.gov/realestate/midpcalcs/index.cfm>. 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.

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.

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.

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).
- (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.

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.

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 180-day homeowner-occupant may elect to rent, instead of purchase, a DS&S replacement dwelling. If so, the 180-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 180-day owner-occupant who chooses to rent will provide the addresses of comparable replacement properties that are available for rent, not sale.

EXAMPLE - 180-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 (>\$22,500) will be made to a 180-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 180-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.

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

A tenant or owner-occupant displaced from a dwelling, who has occupied the property for at least 90 days but less than 180 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:

- 1) For a tenant, the date he or she moves from the displacement dwelling.
- 2) For an owner-occupant, the later of:
 - a) The date he or she receives final payment for the displacement dwelling, or in the case of condemnation, the date the estimate of just compensation is deposited with the court; or
 - b) The date he or she moves from the displacement dwelling.

Displacees are not required to relocate to the same occupancy status (owner or tenant); they have other options depending on tenancy status and occupancy duration. 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).

Occupants, primarily tenants, who do not meet the length of occupancy requirements prior to the ION or move into the property after the ION but before actual acquisition is complete, are not eligible to receive an RD. If the occupancy continues until acquisition is complete, the RAP Agent must provide addresses of comparable replacement properties. Displacees would be entitled to an RD only if they qualify as “low income” per HUD chart (<http://www.fhwa.dot.gov/realestate/ua/ualic.htm>) and such housing is not available for 30 percent or less of the displaced household’s average monthly gross income.

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 \$5,250 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.

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 at <http://www.fhwa.dot.gov/realestate/ua/ualic.htm>), 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.

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 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.

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

<p>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.</p> <p>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.</p> <p>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.</p>

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 unsubsidized 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 Security Deposits**

When a displacee moves from Section 8 housing (displacement property) to Section 8 housing (replacement property), the amount of the Rent Differential will be minimal. The displacee may not have funds available to pay the replacement property's security deposit. The RAP Senior can authorize an additional payment for the security deposit, but only after it is determined that the displacee has a financial hardship based on any of the following criteria:

- The household has insufficient funds in the checking and savings accounts to pay the deposit after considering normal household monthly expenses.
- The security deposit on the displacement property will not be returned, or it will not be a sufficient amount to pay the replacement property security deposit.
- Thirty percent of the household's income is less than the security deposit.

The displacee and the landlord must enter into an agreement stating the Department is the recipient of any and all of the security deposit that is due tenant at the termination of their rental agreement at the replacement property (10-EX-31).

10.04.18.02 **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 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 Web site, and at FHWA's link: <http://www.fhwa.dot.gov/realestate/ua/ualic.htm>.

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.

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.

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 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 <http://www.fhwa.dot.gov/realestate/exclusions.htm> 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 \$5,250, 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.

EXAMPLE	
Displacement Rent	\$400 month
Average Cost of Utilities	<u>150 month</u>
Base Monthly Rent	\$550 month
Most Probable Comparable Rent	\$500 month
Estimated Average Cost of Utilities	<u>175 month</u>
Comparable	\$675 month
Scenario 1:	
Actual Replacement Rent	\$475 month
Estimated Average Cost of Utilities	<u>175 month</u> *
Actual Replacement Rent	\$650 month
<p>Must pick the lesser of Actual Replacement Rent or the Comparable to calculate the RD = $\\$650 - \\$550 \times 42 \text{ months} = \\$4,200$</p>	
Scenario 2:	
Actual Replacement Rent	\$550 month
Estimated Average Cost of Utilities	<u>175 month</u>
Actual Replacement Rent	\$725 month
<p>Must pick the lesser of Actual Replacement Rent or the Comparable to calculate the RD = $\\$675 - \\$550 \times 42 \text{ months} = \\$5,250$</p>	
<p>* Always use the Estimated Average Cost of Utilities from the RHV when determining “spend-to-get” at the actual replacement.</p>	

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.	<p>Step 1 - Find the lower of estimated monthly replacement rent or actual rent paid on replacement property, including average monthly utility costs.</p> <p>Step 2 - Determine the average monthly rent and average monthly utility costs of displacement property.</p> <p>Step 3 - If Step 2 result is larger than or equal to Step 1, the answer is zero (0).</p> <p>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).</p>
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 (http://www.fhwa.dot.gov/realestate/ua/ualic.htm).	<p>Step 1 - Find the lower of estimated monthly replacement rent or actual rent paid on replacement property, including average monthly utility costs.</p> <p>Step 2 - Consult HUD chart to determine if displacee qualifies as low income. If so, continue to Step 3.</p> <p>Step 3 - Determine 30% of monthly gross income of the displacee.</p> <p>Step 4 - If Step 2 result is larger than or equal to Step 1, the answer is zero (0).</p> <p>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).</p> <p>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.</p>

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 180-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 \$5,250 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 \$5,250 is made in accordance with the last resort housing guidelines.

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

Rent Differential payments in excess of \$5,250 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.

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

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.

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 \$5,250 if they meet the "spend-to-get" requirements.

A 90-day occupant or Non-tenured occupant whose RD is \$5,250 or less automatically qualifies for a \$5,250 DP. If the RD is over \$5,250, the DP is limited to the amount of the RD (10.04.13.01). Example:

- RD \$4,200 = DP \$5,250
- RD \$9,100 = DP \$9,100

A displaced person eligible to receive a payment as a 180-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.

10.04.26.03 **Manner of Disbursement (DP)**

If the DP is \$5,250, 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 \$5,250, 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 \$5,250 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	\$5,250
Less lump sum rental assistance already paid	<u>-2,100</u>
Additional State payment toward DP and eligible IE	\$3,150

EXAMPLE:	
LRH (RD = \$21,000)	
DP allowance	\$21,000
Less installment payment of RD already paid	<u>-2,100</u>
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.

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.

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 180-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.

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, Non-Occupant 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	<u>-130,000</u>
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 $\$130,000 \div 2 = \$65,000$. 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 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 08.01.03.00 et seq., of 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.

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 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 180-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.

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.

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.

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 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).

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.

**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, 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.
 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.

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?

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 ION, 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 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 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.

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 \$10,000.

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). 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 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 personal property 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 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.
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 24.305(k) 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.

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 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 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 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.

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.

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.

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 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 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 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.

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 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.

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.

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.

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 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.

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.

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 24.310(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.

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: <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • 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.

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	<u>-\$ 500</u>
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.

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.

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	<u>- \$2,500</u>
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).	

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 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).

Note: These three (3) payments were previously limited to the \$10,000 Reestablishment provisions. Effective February 3, 2005, any displacee who has not yet vacated from the displacement property is eligible for the above payments as a moving expense.

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.

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 \$10,000, 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 \$10,000 cannot be advanced to the 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.

- (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.

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 \$10,000.

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 Non-Occupant Owners**

A small business, farm, or nonprofit organization, including a non-occupant landlord, whose sole activity at the site is providing space at the site to others, is eligible for a Reestablishment Expense Payment up to \$10,000. 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

- 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 non-occupant 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 Non-Occupant Owner payment.

Note: A landlord who leases furnished residential or nonresidential properties is not eligible for a Reestablishment Payment as a Non-Occupant Owner.

The RAP Agent should provide the Non-Occupant 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.

To be eligible to receive the payment, the Non-Occupant 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 Non-Occupant 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 Non-Occupant 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 Non-Occupant Owner cannot receive an In-Lieu Payment (10.05.17.00) regardless of the determination of eligibility for a Reestablishment Payment under this provision.

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 24.303(a)(3) and 24.304(a)(2)(5), 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 \$10,000 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.

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 \$20,000.

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.

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.

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, 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.

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.

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
	<u>\$11,000</u>	Individual 1040*
	\$26,000	
2009	- \$11,000	Schedule C
	<u>\$10,000</u>	Individual 1040*
	- \$ 1,000	
	Adjusted to zero	
2008	\$15,000	Schedule C
	<u>\$ 3,000</u>	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 \$20,000.

EXAMPLE B:

2010	- \$15,000	Schedule C
	<u>\$16,000</u>	Individual 1040*
	\$ 1,000	
2009	- \$11,000	Schedule C
	<u>\$10,000</u>	Individual 1040*
	- \$ 1,000	
2008	- \$10,000	Schedule C
	<u>\$18,000</u>	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.

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.
- 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.

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 or 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 24.303(a)(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.

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.

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

NONRESIDENTIAL DEFINITIONS
<p><u>Salvage Value</u> [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.</p>
<p><u>Small Business</u> [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.</p>
<p><u>Nonprofit Organization</u> [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).</p>
<p><u>Contributes Materially</u> [49 CFR 24.2(a)(7)]: 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:</p> <ol style="list-style-type: none">(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.
<p><u>Business</u> [49 CFR 24.2(a)(4)]: Any lawful activity, except a farm operation, that is conducted primarily:</p> <ol style="list-style-type: none">(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.
<p><u>Farm Operation</u> [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.</p>

NOTES:

CHAPTER 10

Relocation Assistance Table of Contents

EXHIBITS

<u>Exhibit No.</u>	<u>Title</u>
10-EX-1	Relocation File Closeout Checklists
10-EX-2	Business Search Expense Summary
10-EX-3	Relocation Impact Memorandum
10-EX-3A	Relocation Impact Statement
10-EX-4	Relocation Impact Report
10-EX-4A	RAP Planning Document
10-EX-4B	Hold for Future Use
10-EX-5	Relocation Impact Document - Questionnaire
10-EX-5A	Hold for Future Use
10-EX-5B	Hold for Future Use
10-EX-6	Explanatory Letter When Mailing Surveys
10-EX-7	Hold for Future Use
10-EX-8	Right of Way and Environmental Responsibilities
10-EX-9	Assignment of Funds to an Escrow
10-EX-10	Assignment of Funds
10-EX-11	Escrow Instructions (Format) Work Sheet
10-EX-12	Agreement to Abandonment of Personal Property
10-EX-13	Request for Old Loan Information Before Close of Escrow
10-EX-14	Request for Old Loan Information After Close of Escrow
10-EX-15	Interest Differential Calculation Procedures
10-EX-16	Mortgage Insurance Premium (MIP) Calculation
10-EX-17	Rental Assistance Payments by Installments
10-EX-18	Rental Assistance Payment to Landlord
10-EX-19	Replacement Housing Valuations
10-EX-20	Replacement Housing Valuation Request
10-EX-21	Mobile Home Benefit Tables
10-EX-22	Guidance on Converting a Rent Differential (RD) to a Down Payment (DP) for a Mobile Home
10-EX-23	Certification of Mobile Home Title Transfer
10-EX-24	Verification of Installation and Occupancy of Mobile Home
10-EX-25	Proration for Divorced or Separated Couples
10-EX-26	Gross Income for the Purpose of Calculating Rent Differentials
10-EX-27	Processing MSA Claims
10-EX-28	Timelines for Residential Occupants to Occupy and File Claim
10-EX-29	Replacement Housing Valuations - FHWA Guidance

<u>Exhibit No.</u>	<u>Title</u>
10-EX-30	FHWA Guidance on Reestablishment
10-EX-31	Reminder Letter to Displacee re: Time Frames
10-EX-32	Certified Inventory - Nonresidential
10-EX-33	Nonresidential Letter to Displacee re: Available Assistance
10-EX-34	FHWA Guidance on Determining Multiple Households
10-EX-35	Nonresidential Interview Checklist
10-EX-36	Guidelines for Developing Moving Specifications
10-EX-37	Guidelines for Monitoring a Nonresidential Move
10-EX-38	Self-Move Agreement
10-EX-39	Notice of Eligibility - 90-Day and Non-Tenured Occupant(s)
10-EX-40	Conditional Entitlement Letter - 90-Day and Non-Tenured Occupant(s)
10-EX-41	Notice of Eligibility - Subsequent Occupant(s)
10-EX-42	Conditional Entitlement Letter - Subsequent Occupant(s)
10-EX-43	Notice of Eligibility - Business, Farm or Nonprofit Organization
10-EX-44	Last Resort Housing Guidelines
10-EX-45	Conditional Entitlement Letter - 180-Day Owner-Occupant
10-EX-46	Notice of Eligibility - Personal Property Only
10-EX-47	Notice of Eligibility - 180-Day Owner-Occupant Mobile Home
10-EX-48	Conditional Entitlement Letter - 180-Day Owner-Occupant Mobile Home
10-EX-49	Notice of Eligibility - 180-Day Owner-Occupant
10-EX-50	Notice of Eligibility - Nonoccupant Owner Leasing Space to Others

NONRESIDENTIAL FILE CLOSEOUT CHECKLIST

Name _____ File Reference _____

All documents should be in chronological order starting from the back to front:

- _____ 1. Parcel Occupancy Data Sheet (RW 7-2, completed by Appraiser)
- _____ 2. Title VI/General Information Letter (RW 10-7)
- _____ 3. U. S. Legal Residency Certification Form (RW 10-44 or RW 10-44s)
- _____ 4. If Lessee, Owner’s Certification of Tenants (RW 10-1, completed by Acquisition Agent)
- _____ 5. Notice of Eligibility - Business, Farm, or Nonprofit Organization (10-EX-43)
- _____ 6. Nonresidential Letter to Displacee Re: Available Assistance (10-EX-33)
- _____ 7. Reminder Letter to Displacee Re: Time Frames (10-EX-31)
- _____ 8. Chronological order of claims paid. Be sure to have proper Accounting documents in file and arranged in same order when processing a claim for Senior review and approval.
- _____ 9. Acquisition Agent RAP Agent presented First RAP Call and completed and signed diary entry and check-off list.
- _____ 10. All files should have copies of the State’s Close of Escrow (pink slip), or Final Order of Condemnation (except Business Lessees).
- _____ 11. If claimant becomes a State tenant, include a Property Management Vacancy report.
- _____ 12. All diary entries, letters, and notices **must be signed** in full - not initialed.
- _____ 13. All claims must be date stamped. Verify vacancy before issuing move check.
- _____ 14. When Business RAP payments have been made, include “Notice of In-Lieu Payment or Reestablishment Expenses” form (RW 10-38).
- _____ 15. DISCARD ALL DUPLICATE PAPERWORK AND UNUSED CLAIM FORMS. Print copy of the ROWMIS screen.
- _____ 16. Appeal Expiration Date: _____
- _____ 17. ALL FINAL DIARY ENTRIES SHOULD STATE: “All payments were made in a timely manner. Documentation is complete. I recommend this file to be closed.”

CLOSED BY: _____ DATE: _____

RELOCATION FILE CLOSEOUT CHECKLISTS (Cont.)

(Form #)

EXHIBIT

10-EX-1 (NEW 5/2012)

Page 2 of 3

RESIDENTIAL OWNER FILE CLOSEOUT CHECKLIST

Name _____

File Reference _____

Includes: 180-Day Owner-Occupants and 180-Day Owner-Occupants of Mobile Homes

All documents should be in chronological order starting from the back to front:

- _____ 1. Parcel Occupancy Data Sheet (RW 7-2, completed by Appraiser)
- _____ 2. Title VI/General Information Letter (RW 10-7). **Survey form to be kept in separate project file.**
- _____ 3. U. S. Legal Residency Certification Form (RW 10-44 or RW 10-44s)
- _____ 4. Certificate of Occupancy and Receipt of Relocation Information (RW 10-25). Number of rooms on this form should match Conditional Entitlement Letter.
- _____ 5. Notice of Eligibility - 10-EX-49 10-EX-47
- _____ 6. Conditional Entitlement Letter - 10-EX-45 10-EX-48
- _____ 7. Reminder Letter to Displacee Re: Time Frames (10-EX-31)
- _____ 8. Chronological order of claims paid. Be sure to have proper Accounting documents in file and arranged in same order when processing a claim for Senior review and approval.
- _____ 9. All files should have copies of the State’s Close of Escrow (pink slip), or Final Order of Condemnation (except Business Lessees).
- _____ 10. If claimant becomes a State tenant, include a Property Management Vacancy report.
- _____ 11. If State participates with monies on a replacement, must have completed and approved Decent, Safe, and Sanitary form (RW 10-40), Final Certified Closing Cost Statement, Assignment of Funds to an Escrow (10-EX-9), Escrow Instructions (10-EX-11), and Payee Data Record (STD. 204).
- _____ 12. Complete dates on all claim forms “pending” actual dates.
- _____ 13. All diary entries, letters, and notices **must be signed** in full - not initialed.
- _____ 14. All claims and RHVs must be date stamped and have dollar amounts where appropriate. Verify vacancy before issuing move check.
- _____ 15. If categorized as Last Resort Housing (e.g., when RHP exceeds \$22,500), then “Last Resort Housing” must be identified in the ROWMIS database.
- _____ 16. Complete all entries on front of diary sheet. Acquisition Agent should complete and sign the First RAP Call check-off list at FWO.
- _____ 17. If displacee buys a replacement, include a copy of the certified closing statement and make sure it has reconciled and the monies were applied in accordance with our escrow instructions.
- _____ 18. If displacee used MSA, make sure all utility reconnection charges have been paid.
- _____ 19. **DISCARD ALL DUPLICATE PAPERWORK AND UNUSED CLAIM FORMS.** Print copy of the ROWMIS screen.
- _____ 20. Appeal Expiration Date: _____
- _____ 21. **ALL FINAL DIARY ENTRIES SHOULD STATE:** “All payments were made in a timely manner. Documentation is complete. I recommend this file to be closed.”

CLOSED BY: _____

DATE: _____

RESIDENTIAL OCCUPANT FILE CLOSEOUT CHECKLIST

Name _____

File Reference _____

Includes: Less Than 180-Day Owner-Occupants, 90-Day Owner and Tenant Occupants, Non-Tenured (Less Than 90-Day) Occupants, Subsequent (Post-Offer) Occupants and Residential Personal Property Only

All documents should be in chronological order starting from the back to front:

- _____ 1. Parcel Occupancy Data Sheet (RW 7-2, completed by Appraiser)
- _____ 2. Title VI/General Information Letter (RW 10-7). **Survey form to be kept in separate project file.**
- _____ 3. U. S. Legal Residency Certification Form (RW 10-44 or RW 10-44s)
- _____ 4. Owner’s Certification of Tenants (RW 10-1, completed by Acquisition Agent)
- _____ 5. Certificate of Occupancy and Receipt of Relocation Information (RW 10-25). Number of rooms on this form should match Conditional Entitlement Letter.
- _____ 6. Notice of Eligibility - 10-EX-39 10-EX-41 10-EX-46
- _____ 7. Conditional Entitlement Letter - 10-EX-40 10-EX-42
- _____ 8. Reminder Letter to Displacee Re: Time Frames (10-EX-31)
- _____ 9. Chronological order of claims paid. Be sure to have proper Accounting documents in file and arranged in same order when processing a claim for Senior review and approval. Verify vacancy before move money can be issued. Get keys from displacee.
- _____ 10. All files should have copies of the State’s Close of Escrow (pink slip); some files are N/A.
- _____ 11. If claimant becomes a State tenant, include a Property Management Vacancy report.
- _____ 12. If State participates with monies on a replacement, must have completed and approved Decent, Safe, and Sanitary form (RW 10-40), Final Certified Closing Cost Statement, Assignment of Funds to an Escrow (10-EX-9), Escrow Instructions (10-EX-11), and Payee Data Record (STD. 204).
- _____ 13. Complete dates on all claim forms “pending” actual dates.
- _____ 14. All diary entries, letters, and notices **must be signed** in full - not initialed.
- _____ 15. If categorized as Last Resort Housing (e.g., when RHP exceeds \$5,250), then “Last Resort Housing” must be identified in the ROWMIS database.
- _____ 16. Complete all entries on front of diary sheet. Acquisition Agent should complete and sign the First RAP Call check-off list at FWO.
- _____ 17. If displacee buys a replacement, include a copy of the certified closing statement and make sure it has reconciled and the monies were applied in accordance with our escrow instructions.
- _____ 18. If displacee used MSA, make sure all utility reconnection charges have been paid.
- _____ 19. **DISCARD ALL DUPLICATE PAPERWORK AND UNUSED CLAIM FORMS.** Print copy of the ROWMIS screen.
- _____ 20. Appeal Expiration Date: _____
- _____ 21. **ALL FINAL DIARY ENTRIES SHOULD STATE:** “All payments were made in a timely manner. Documentation is complete. I recommend this file to be closed.”

CLOSED BY: _____

DATE: _____

Business Name:	File Reference:
Business Owner:	Business Address:
Person Doing Search:	Business Phone No.:

DATE	ADDRESS OF POTENTIAL REPLACEMENT PROPERTY	HOURS SPENT	VEHICLE MILEAGE	MEALS/ LODGING	WHO DID YOU MEET WITH AND WHAT WAS THE RESULT OF THE VISIT?

Search Cost Calculations:

_____ Hours x \$ _____ = \$ _____

_____ Miles x \$ _____ = \$ _____

Meals and Lodging = \$ _____

TOTAL (Maximum \$2,500) = \$ _____

- Time spent is based on reasonable salary earnings and must have been during normal working hours for which no compensation is otherwise received.
- Mileage rates not to exceed \$0.50 cents per mile.
- Meals and lodging away from home based on paid-receipted bills.
- The term “general area” is not an acceptable site address.

I CERTIFY that all information submitted herewith or included herein is true and correct.

 SIGNATURE TITLE DATE

ESCROW INSTRUCTIONS (FORMAT) WORK SHEET

(Form #)

Dist	Co	Rte	KP(P.M.)
Parcel		Project ID	
Date		Exp Auth	

(Name and address of Escrow Company)

Gentlemen:

Re: Escrow No. _____ (Escrow Officer _____)
 Account of: (Seller(s)) _____
 (Purchaser(s)) _____

Within approximately _____ days, you should receive a State Controller's warrant in the amount of \$ _____ payable to your firm for the account of the above-referenced purchaser(s). This warrant may be cashed and the proceeds placed in a trust account for the purchaser, subject to the following conditions:

1. This escrow has closed and title is vested in the above purchaser(s) or this escrow can be closed with title vested in the above purchaser(s).
2. The above purchaser(s) furnish(es) you with a written statement that (they/he/she) occupy(ies) or plan(s) to occupy the subject property.
3. The purchase price, excluding all escrow costs, must be a minimum of \$ _____.
4. The funds deposited by the Department of Transportation must be used in escrow only for:
 - Principal down payment
 - Non-recurring closing costs as approved by the Department
 - Mortgage interest differential as calculated and approved by the Department

No other charges may be paid with these funds.

Any amount not used in the purchaser's account shall be forfeited and returned to the Department of Transportation.

When the above-referenced escrow has closed, please forward a certified copy of the closing statement to this office within five (5) days.

Please sign the copy of this letter and the original letter of assignment and return both of them to us in the enclosed self-addressed envelope. If you have any questions, please contact _____ at _____.

Sincerely,

Received by: _____ Date _____

ADA Notice

For individuals with disabilities, this document is available in alternate formats. For information, call (916) 654-5413 Voice, CRS: 1-800-735-2929, or write Right of Way, 1120 N Street, MS-37, Sacramento, CA 95814.

EXAMPLE #1 - SFR ON OVERSIZED RESIDENTIAL LOT

Background Data: The displacement property is an SFR situated on land that exceeds the size of the typical dwelling site. The displacement property lot contains 12,000 SF, whereas a typical dwelling site has only 8,000 SF. The highest and best use of the land is for continued use as a single-family residence. This is a total acquisition.

Task: To prepare a Replacement Housing Valuation (RHV) Report on the displacement property in a manner that is both equitable and fair to the State and the displaced person. To do so, we need to segregate the “contributory value” of the “surplus land area” from the total displacement property valuation as set forth in the FMV appraisal.

When preparing the RAP valuation, if you suspect the displacement dwelling is located on an oversized lot, and there are no available improved comparable replacement properties on similar sized lots, proceed as follows:

First, determine the size of a typical dwelling site for the neighborhood (or project area) and confirm that you do in fact have an oversized lot. This is a judgment call, and you may want to consult with the local planning department or assessor’s office for guidance. When you do have an oversized lot, think of the additional area as the surplus land area.

Second, determine the value of the typical dwelling site by any approved appraisal method. Subtract the value of the typical dwelling site from the total site valuation placed on the displacement property in the FMV appraisal. The difference is the contributory value of the surplus land area and should be deducted from the acquisition cost of the displacement property like any other major exterior attribute in the basic computation of the price differential entitlement.

In valuing the typical dwelling site, you should proceed as follows:

- Step 1,** determine if there are any available improved comparable replacement properties that have 12,000 SF lots. If so, these comparables may be used in the RHV. If none are available, go to
- Step 2,** attempt to locate bare land sales (or listings) of typical dwelling sites. If none, go to
- Step 3,** look for sales of improved properties where the sales occurred within a short time of each other, the improvements are nearly identical, and the only major difference between the two is that one lot is larger than the other. With all other things being nearly equal, a higher selling price of one could be attributed to the surplus land area. A difference in sales prices between the two properties would represent the contributory value of the surplus land area. If no such property sales have taken place, go to
- Step 4,** estimate the value of the typical dwelling site based on the best available data. You might consider the opinion of the FMV appraiser, other fee appraisers in the area, real estate brokers, etc. Document your source of data. If no such data is available, the only other alternative is
- Step 5,** estimate the contributory value of the surplus land area itself based on the best available data. The question is how much extra would a homebuyer pay for the additional land area. This, too, is a judgment call and the opinions of fee appraisers and brokers who are familiar with the area are probably the best source of information.

FOR EXAMPLE:

Displacement lot	12,000 SF	
Typical dwelling site	8,000 SF	
Surplus	4,000 SF	
Contributory value		\$8,000
Displacement property, total FMV appraisal		\$240,000
Contributory value		<u>- 8,000</u>
Adjusted RHV for acquisition price		\$232,000

Special valuation procedures for an “undersized lot” normally would not be necessary because there is no major exterior attribute.

REPLACEMENT HOUSING VALUATIONS (Cont.)

(Form #)

EXHIBIT

10-EX-19 (REV 5/2012)

Page 2 of 4

EXAMPLE #2 - DWELLING ON LAND WITH HIGHER AND BETTER USE - Full or Part Take

The displacement value applied to the residential part of an acquired property with a highest and best use other than residential shall be determined as follows:

A. Carve-Out Method:

1. Determine the land area occupied by the residential use.
2. Apply the nonresidential land value from the FMV appraisal (the amount actually paid) to the land area occupied by the residential use.
3. Add the contributory value of the residential improvements from the FMV.

The total of Steps 2 and 3 is the residential displacement value based on the carve-out method.

B. Calculate Price Differential:

Subtract the displacement value from the cost of the comparable replacement dwelling to arrive at the price differential.

FOR EXAMPLE (Full Take):

The displacement is a larger, commercially zoned property that includes a single-family residence. Fair Market Value of entire property is \$281,000 as follows:

Land - 20,000 SF of commercially zoned land @ \$14/SF (commercial value)	\$280,000
Improvements - Single family residence and appurtenances (interim value)	<u>1,000</u>
Total Acquisition Price	\$281,000

Land area attributed to residential use - 10,000 SF, the same size as a typical dwelling site.
Value of improvements if located on a typical dwelling site - \$85,000

Carve-Out Method:

Acquisition price of land (10,000 SF* @ \$14/SF commercial value)	\$140,000
Add acquisition price of SFR and appurtenances	<u>1,000</u>
Residential displacement value based on "carve-out" method	\$141,000

(* If the area attributable to residential use were 8,000 SF, that area would be used since it is less than the typical dwelling site. However, if the area attributable to residential use were 12,000 SF, then the typical dwelling site of 10,000 SF would be used.)

Calculate the Price Differential: Residential displacement value based on the "carve-out method" is used to calculate price differential.

Most comparable replacement dwelling	\$150,000
Less residential displacement value based on "carve-out method"	<u>- 141,000</u>
Price differential	\$ 9,000

REPLACEMENT HOUSING VALUATIONS (Cont.)

(Form #)

EXHIBIT

10-EX-19 (REV 5/2012)

Page 3 of 4

FOR EXAMPLE (Part Take):

The displacement is a larger, commercially zoned property that includes a single-family residence. In this example, the area of the displacement property attributed to residential use is 10,000 SF, the same size as a typical dwelling site. However, only 5,000 SF of land is being acquired along with the residence.

Land - 5,000 SF (of the 20,000 SF) commercially zoned land @ \$14/SF (commercial value)	\$70,000
Improvements - Single family residence and appurtenances (interim value)	<u>1,000</u>
Total Acquisition Price	\$71,000

Land area attributed to residential use - 10,000 SF, the same size as a typical dwelling site.

Value of improvements if located on a typical dwelling site - \$85,000

Carve-Out Method:

Acquisition price of land (5,000 SF* @ \$14/SF commercial value)	\$70,000
Acquisition price of SFR and appurtenances (interim value) of	<u>1,000</u>
Residential displacement value based on "carve-out" method	\$71,000

(* Area attributable to residential use up to, but not exceeding, a typical dwelling site.)

Calculate the Price Differential: Residential displacement value based on the "carve-out method" is used to calculate price differential.

Cost of comparable replacement dwelling	\$150,000
Less residential displacement value based on carve-out method	<u>- 71,000</u>
Price differential	\$ 79,000

REPLACEMENT HOUSING VALUATIONS (Cont.)

(Form #)

EXHIBIT

10-EX-19 (REV 5/2012)

Page 4 of 4

EXAMPLE #3 - DWELLING ON MIXED LAND USE

A dwelling unit may be located on or within a commercial or industrial building. When the housing unit is separate and apart from the commercial or industrial building, it is valued in the same manner as shown in Example #2. Frequently, the dwelling is integrated within the business or industrial improvement. Examples are an owner's or operator's upstairs apartment or a backroom dwelling area.

For consistency, the land value for determining the dwelling displacement value must be the land area actually occupied by the dwelling, or a prorated share of the land value when there is a vertical, dual use of the land, such as an upstairs or basement dwelling unit, or a loft living area.

FOR EXAMPLE:

Assume the displacement property is a grocery store with a second floor apartment.

Land value of entire property 5,000 SF @ \$15/SF	\$ 75,000
Ground Floor - Store (Improvements) 4,000 SF @ \$20/SF	80,000
2nd Floor - Apartment (Improvements) 1,000 SF @ \$18/SF	<u>18,000</u>
Total value of land and improvements	\$173,000

This displacement value is the value of the dwelling improvement plus the prorated value (50% of \$15/SF) of the land encumbered by the dwelling unit.

2nd Floor - Improvements 1,000 SF @ \$18/SF	\$18,000
Land value (area encumbered by dwelling 1,000 SF @ \$7.50/SF)	<u>7,500*</u>
Total Displacement Value	\$25,500

(*The unit land value for the improvements is at one-half the total unit land value.)

If the 1,000 square feet of land that is not encumbered by improvements is reasonably appurtenant to the living area and/or designated as a residential use, then an additional calculation is required.

Unencumbered land that is jointly used - 500 SF @ \$7.50/SF	\$3,750	
Unencumbered land that is strictly for the residential use - 250 SF @ \$15/SF	<u>3,750</u>	
	\$7,500	Added to \$25,500

(Remaining unencumbered land is strictly for the business use)

The business displacement is valued as \$173,000 - \$33,000 = \$140,000. Verified as follows:

Improvements (Ground Floor - Store)	\$ 80,000
Land Encumbered 3,000 SF @ \$15/SF	\$ 45,000
Land Encumbered 1,000 SF @ \$7.50/SF	\$ 7,500
Land not encumbered (jointly used) 500 SF @ \$7.50/SF	\$ 3,750
Land not encumbered (business only) 250 SF @ \$15/SF	\$ 3,750

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REPLACEMENT HOUSING VALUATION REQUEST

10-EX-20 (NEW 5/2012)

(Form #)

TO: RHV Agent

Dist	Co	Rte	KP(P.M.)	Exp Auth

FROM: RAP Agent

Date	Parcel No.	Project ID

Please prepare a Replacement Housing Valuation for:

Name of Displacee: _____

Type of Residential Unit: _____

Address of Displaced Unit: _____

No. of occupants: _____ No. of bedrooms required (*assuming 2 ppl/bd*): _____Identify any special needs which may require deviation from 2 ppl/bd standard (*e.g., someone needs their own bedroom or a large bedroom may accommodate three toddlers*): _____**Specifics about the displacement dwelling:**

Lot size: _____

Exterior square footage, per appraisal report: _____

(Subtract area not used as residential): _____ = Net Area: _____

Age: _____ years Condition: _____ Quality: _____

No. of rooms (*specify if number includes office, separate utility room, living, family, dining area/room, den*): _____

No. of bedrooms: _____ No. of bathrooms: _____ Parking type and no. of spaces: _____

Additional amenities (*e.g., view, location, security, fencing*): _____**Carve-outs:**Identify type and value of major exterior attributes that may necessitate a carve-out, derived from appraisal report (*e.g., swimming pool; outbuildings*): _____If multi-residential or mixed-use, identify type and carve-out value of the residential unit from appraisal report (*e.g., acreage used for farming, space dedicated to business use, additional residential units*): _____

If oversized lot may necessitate carve-out, identify area and value of property in excess of typical residential lot size from appraisal report: _____

Additional considerations:

Displacee(s) currently have a _____ mile round trip commute to their respective places of employment.

Displacee has identified the following needs (*e.g., barrier free housing for handicapped occupants which includes these features, e.g., walk-in shower, no step over tub, ramps into and out of all exterior exits*): _____Displacee's use of current residence indicates that functional replacement or trade-offs should be considered for the following: (*e.g., extra large kitchen and dining room; separate utility room for laundry facilities, entertainment/game room*): _____Please specify issues related to comparability of displacement neighborhood that should be considered, per 10.06.04.00 and 49 CFR 24.2(a)(6)(ii). (*Re: public transportation; public services; schools; shopping; churches; etc.*): _____**ADA Notice**

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PROCESSING MSA CLAIMS

(Form #)

	RAP Agent completes the following;
1	Prepares five (5) copies of RW 10-29.
2	Reviews R/W Contract for any items considered realty to which displacee retained ownership (such as carpeting and draperies). These items cannot be moved at Department expense.
3	Explains MSA procedures to displacee calling their attention to terms and instructions printed on both sides of the form.
4	Advises displacee of 50-mile limit and cost exclusions for retained items of realty. Advises displacee to make their own arrangements for payment of these cost exclusions.
5	Explains insurance option. Displacee may insure contents for a lump sum representing the replacement cost of the property or for \$1.50 per pound. Encourage replacement cost method as this provides more protection to displacee than the flat rate. It also protects the State's interest as any costs the State incurs from a damage claim are normally not Federally participating.
6	To avoid over insuring, inspects the personalty and completes Block 8 of the MSA before giving it to displacee.
7	Annotates the RAP diary that insurance option was explained.
8	Delivers original and two signed copies of MSA to displacee, along with a "State List of Eligible Household Goods Carriers." (A PDF of this list is available from the Department of General Services' Web site, Procurement Division, Programs & Services, Transportation Management , expand "Household Goods Relocations.") Retains one copy in the RAP case file and sends one copy to the State Traffic Manager at: Department of General Services Transportation Management 707 Third Street, 2 nd Floor West Sacramento, CA 95605
9	Displacee selects a carrier from approved list and makes arrangements for the move.
10	And signs original and two copies of MSA. Gives the original and one copy to carrier. Retains one copy signed by carrier in case of complaints, insurance claims, or other problems later on.
11	Carrier, upon completion of services, forwards original signed MSA and bill to the State Traffic Manager at the address above.
12	State Traffic Manager (DGS) reviews bill for compliance with "Uniform Tender of Services and Rates for Transporting Used Household Goods."
13	• Handles any adjustment in the carrier's charges directly with the carrier.
14a	• If rates are acceptable, stamps "Rates Approved" on bill.
14b	• Deletes overcharges or unauthorized items from the carrier's bill and stamps "Audited--Approved for \$ _____" on it.
15	• Routes MSA and bill to the District.
16	Finally, RAP Agent reviews MSA to ensure it is properly signed by carrier, displacee, and District representative and is accompanied by carrier's itemized bill.
17a	If no charges were deleted from carrier's bill, verifies all arithmetical extensions and totals.
17b	If charges were deleted from carrier's bill, verification of arithmetical extensions and totals is not required
18	Reviews bill to make sure no charges for excluded items (Block 4) or distances over 50 miles are included. If such charges are included, asks State Traffic Manager to make necessary adjustments.

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TIMELINES FOR RESIDENTIAL OCCUPANTS TO OCCUPY AND FILE CLAIM

(Form #)

TIMELINES FOR RESIDENTIAL DISPLACED TO:

- Receive Benefits
- Occupy Replacement Property
- File a Claim for Benefits

180-day Owner-Occupants:

1. Must be in occupancy 180 days prior to the First Written Offer to acquire the property.
2. Must occupy replacement property within 1 year of the later:
 - Final payment (COE or FOC).
 - Provided the address of a comparable available property.
3. Must file a claim within 18 months of the later:
 - Final payment (COE or FOC).
 - Vacating the property.

Example 1:

5/1/08	7/1/08	9/1/08	11/1/08	11/1/09	5/1/10 (18 months from FOC date)
FWO	Address	Vacate	FOC	Occupy	Claim

Example 2:

5/1/08	7/1/08	9/1/08	10/1/08	10/1/09	3/1/10 (18 months from vacate date)
FWO	COE	Vacate	Address	Occupy	Claim

Example 2 only allows 5 months from occupancy date **to file the claim** because the 18 months begins to run on the date they vacated (9/1/08) not the date of COE (7/1/08). Note: Region/District can extend the time period to occupy and file with good cause. Region/District should provide displacee with the time periods in writing once they have 1) vacated, 2) been provided an address, 3) received final payment.

90-day Occupants – Owners:

1. Must be in occupancy 90 days prior to the First Written Offer to acquire the property (but less than 180 days).
2. Must occupy replacement property within 1 year of the later:
 - Final payment (COE or FOC)
 - Vacating the property
3. Must file a claim within 18 months of the later:
 - Final payment (COE or FOC)
 - Vacating the property

Example 1:

5/1/08	9/1/08	10/1/08	10/1/09	4/1/10 (18 months from FOC date)
FWO	Vacate	FOC	Occupy	Claim

Example 2:

5/1/08	7/1/08	9/1/08	9/1/09	3/1/10 (18 months from vacate date)
FWO	COE	Vacate	Occupy	Claim

Note: There is still a requirement to provide 90-day owner-occupants with the address of an available comparable replacement property, however, none of the time periods are impacted by this date.

90-day Occupants – Tenants and Non-Tenured (<90 days) Occupants:

1. Must be in occupancy prior to the First Written Offer to acquire the property.
2. Must occupy replacement property within 1 year of the date of:
 - Vacating the property
3. Must file a claim within 18 months of the date of:
 - Vacating the property

Example 1:

5/1/08	9/1/08	9/1/09	3/1/10
FWO	Vacate	Occupy	Claim

Note: Everyone receives moving expenses and advisory assistance regardless of the number of days in occupancy prior to the First Written Offer up to the date the State takes control of the property. Subsequent occupants (post offer) qualify for rental assistance and the same time periods run; but they cannot vacate until the State takes control of the property.

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REMINDER LETTER TO DISPLACEE RE: TIME FRAMES

(Form #)

Date _____

File Reference _____

Dear _____:

As the displacee of the property located at _____, you are entitled to certain relocation benefits that have been explained to you in detail. This letter is to inform you of the required timelines you must follow in order to receive your full relocation benefits.

SELECT ONLY ONE:

- 1. As the 180-day residential owner, you have 12 months from the later of the following two dates to purchase a replacement dwelling: _____ which was the day the Department provided you with the address of a comparable replacement property, or _____, the date the Department paid you for your property. You have 18 months from the later of the following two dates to file a claim for your moving expenses and/or purchase differential, closing and incidental costs: _____ the close of escrow, or _____ the date you vacated your displacement property at _____. Your purchase differential is \$_____ (amount of original differential). You used \$_____ (amount of original differential used) of your Price Differential, and you now have \$_____ (the remaining amount of differential) available for you to use providing you purchase and occupy a decent, safe, and sanitary dwelling for at least \$_____. You have 24 months from _____ to file an appeal for relocation benefits.
- 2. As the 90-day residential owner, you have 12 months from the later of the following two dates to rent a replacement property: _____ the date you vacated your displacement property at _____, or _____ the date the Department paid you for your property. You have 18 months from the later of the following two dates to file a claim for your moving expenses and/or Rent Differential or Down Payment: _____ the close of escrow, or _____ the date you vacated your displacement property at _____. Your Rent Differential is \$_____ (amount of original differential). You used \$_____ (amount of original differential used) of your Rent Differential, and you now have \$_____ (the remaining amount of differential) available for you to use providing you rent and occupy a decent, safe, and sanitary dwelling for at least \$_____. You have 24 months from _____ to file an appeal.
- 3. As the eligible residential tenant, you have 12 months from _____ the date you vacated your displacement property at _____, to obtain a replacement dwelling. You have 18 months from _____ the date you vacated your displacement property at _____ to file a claim for your moving expenses and/or Rent Differential or Down Payment. Your Rent Differential is \$_____ (amount of original differential). You used \$_____ (amount of original differential used) of your Rent Differential, you now have \$_____ (the remaining amount of differential) available for you to use providing you rent and occupy a decent, safe, and sanitary dwelling for at least \$_____. You have 24 months from that same date to file an appeal for relocation benefits.
- 4. As the owner of a nonresidential property, you have 18 months from the later of the following two dates to file a claim for moving expenses: _____ the date you vacated your displacement property at _____, or _____ the date the Department paid you for the displacement property. You have 24 months from that same date to file an appeal for relocation benefits.
- 5. As the tenant/lessee of a nonresidential property, you have 18 months from _____, the date you vacated your displacement property at _____, to file a claim for moving expenses. You have 24 months from that same date to file an appeal for relocation benefits.

If you have any questions, please contact me at _____.

NONRESIDENTIAL LETTER TO DISPLACEE RE: AVAILABLE ASSISTANCE

(Form #)

Date _____

File Reference _____

Dear _____:

As the displacee of the property located at _____, you are entitled to certain relocation benefits that have been explained to you in detail. This letter is to remind you of relocation assistance that is available to you and ensure program guidelines are followed, in order to receive your full relocation benefits.

In order to qualify for reimbursement of eligible relocation benefits, you **MUST**:

- Provide the Department with a certified list or inventory of the items to be moved at least 30 days in advance of the start of your move;
- Notify the Department at least 15 days in advance of the date of the start of your move or disposition of your property;
- Permit the Department to monitor the move; and
- Permit the Department to make reasonable and timely inspections of the personal property at both the displacement and replacement sites.

The Department is prepared to assist you in the relocation of your business. If we have not already met with you to discuss the details of your business, please contact me to arrange a meeting. We will review your particular circumstances and provide assistance as appropriate for you. In particular, we suggest discussing:

- 1. The business's replacement site requirements, current lease terms and other contractual obligations, and the financial capacity of the business to accomplish the move.
- 2. Determining the need for outside specialists that may be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.
- 3. Estimate the time required for the business to vacate the site.
- 4. Estimate the anticipated difficulty in locating a replacement property.
- 5. Identify any necessary advance payments, which require prior approval.

USE APPROPRIATE PARAGRAPH BELOW:

As the owner of a nonresidential property, you have 18 months from the later of the following two dates to file a claim for moving expenses: _____ the date you vacated your displacement property at _____, or _____ the date the Department paid you for the displacement property. You have 24 months from that same date to file an appeal for relocation benefits.

As the tenant/lessee of a nonresidential property, you have 18 months from _____, the date you vacated your displacement property at _____, to file a claim for moving expenses. You have 24 months from that same date to file an appeal for relocation benefits.

If you have any questions, please contact me at _____.

FHWA GUIDANCE ON DETERMINING MULTIPLE HOUSEHOLDS

(Form #)

The RAP Agent will use the following guidance when the displacement property is occupied by multiple persons not in the same household, such as:

- Unrelated persons sharing an apartment.
- Adult children living with their mother and father, who are owners of the property.
- Two or more separate households sharing a house.

49 CFR 24.403(a)(5) states “If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable share, as determined by the Agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the Agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.” The RHP will either be a single calculation that will be split between the occupants or it will be multiple calculations specific to each identifiable household.

The RAP Agent must determine if the persons are one household or separate households by obtaining the following information:

1. Separate rental agreements for each household. Or if owner occupied, a separate rental agreement for the secondary households. The agreements should document who pays for utilities and if there is a proration of the utility bill. The agreement should also note the secondary household’s right to use the displacement property’s facilities.
2. Proof of separate rental payments (cashier’s checks, rental receipts) and utilities. A separate household might have certain utilities in their own name (e.g., cable TV, satellite dish, phone service).
3. Each household maintains separate checking and savings accounts.
4. The displacement property is the primary residence of each household as noted on DMV records, voter registration, credit card bills, etc.
5. Separate arrangements for purchasing, preparing and serving food (e.g., separate shelves for food, multiple refrigerators, designated times for cooking). Additionally, the other household activities are separate (e.g., laundry, housekeeping, yard maintenance, entertainment).
6. Type of relationship (e.g., blood, marriage, and cohabitation) between the various members of the households. A landlord that is the parent or grandparent of the tenant usually supports the premise of “one household.”
7. Previous rental agreements by the owner of the property. If the rental agreement with their child is the first time they have rented a bedroom on their own, then they are probably one household.
8. Tax records that indicate the owner claims the rent as income, and the secondary household claims a renter’s credit.
9. Separate vehicles for each household.
10. Certain areas designated for the sole use of each household, or do they share areas commonly (e.g., kitchen, bathrooms, living room)?
11. Maintain separate memberships in health, social, or recreational organizations.

Situations:

- 1) A 180-day owner-occupant rents a bedroom in their house. In this instance, the tenant may be entitled to a Rent Differential separate from any Replacement Housing Payments the owner may be entitled to receive.
- 2) A brother and sister share an apartment with their ailing father. In this instance, the siblings are probably caring for their father and may be assisting with the bills by paying a share of the expenses. In this case, the three persons would be entitled to one Rent Differential.

It should be noted that in all cases the burden of proof is on the displacee that they are clearly maintaining separate households. The RAP Agent must determine how interdependent or not is the living arrangement. In determining whether two or more displacees constitute a single household, all pertinent factors should be considered, including the extent to which the same areas in the dwelling are shared, and the extent to which the financial affairs are commingled. The RAP Agent must apply the same criteria to each situation and use good judgment in that the relocation benefits should be calculated as separate households.

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NONRESIDENTIAL INTERVIEW CHECKLIST

(Form #)

1) Determine the Type of Business:

- a) Manufacturing -
 - i) What kind of product? _____
 - ii) What is the source of materials? _____
- b) Wholesale -
 - i) What kind of product? _____
 - ii) Transportation requirements? _____
- c) Retail -
 - i) What type of business? _____
 - ii) Specialty clientele? _____
- d) Service -
 - i) What service is offered? _____
 - ii) Clientele? _____
 - iii) Competition? _____
- e) Other -
 - i) _____
 - ii) _____
 - iii) _____

2) Ownership:

- a) Sole Proprietorship -
 - i) Sole source of income? _____
 - ii) Family members employed? _____
- b) Partnership? _____
- c) Corporation? _____
- d) Institution? _____

3) General:

- a) How many employees? _____
- b) Number of years in operation? _____
- c) How long at present location? _____
- d) Amount of monthly payroll? _____
- e) Gross annual sales? _____
- f) Other? _____
- g) Other? _____

4) Facility Requirements:

- a) Parking? _____
 - b) Zoning restrictions? _____
 - c) Local variances? _____
 - d) What does the Conditional Use Permit allow? _____
 - e) Building type? _____
 - f) Loading aspects: elevators, truck docks, conveyors? _____
 - g) Tax rates? _____
 - h) Utility consumption? _____
 - i) Other? _____
 - j) Other? _____
-

NONRESIDENTIAL INTERVIEW CHECKLIST (Cont.)

(Form #)

EXHIBIT

10-EX-35 (REV 5/2012)

Page 2 of 2

- 5) Preferences of Owner:
 - a) Location? _____
 - b) Price (Rent/Lease) (Purchase)? _____
 - c) Terms? _____
 - d) Future expansion? _____
 - e) Change in operation? _____
 - f) Other? _____
 - g) Other? _____

- 6) Special Consideration:
 - a) Street accessibility for walk-in trade? _____
 - b) Access to specialized utilities (high consumption of disposal volume)? _____
 - c) Rail access? _____
 - d) Landscaping expense or requirements? _____
 - e) Structural capacity? _____
 - f) Traffic requirements? _____
 - g) Other? _____
 - h) Other? _____

- 7) Personal Property:
 - a) Compliance with local code? _____
 - b) Machinery and Equipment Appraisal? _____
 - c) Goodwill? _____
 - d) Cost to Cure? _____
 - e) Loss of Tangible Property/Substitute Property? _____
 - f) Self-Move or Commercial Mover? _____
 - g) Timing and Time frame? _____

- 8) Impact on Displace:
 - a) Losses created by the interruption of business? _____
 - b) Costs associated with adapting the new site for the use of the business? _____
 - c) Increased overhead caused by the replacement location? _____
 - d) Zoning and licensing requirements at the replacement location not in force at the displacement site? _____
 - e) Loss of clientele? _____

- 9) Advisory Assistance:
 - a) Real Estate Broker? _____
 - b) Local Agency involvement? _____
 - c) Financing incentives? _____
 - d) Other? _____
 - e) Other? _____

- 10) Comments/Remarks: _____

ADA Notice

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To assist in preparing specifications, the following essential items should be included in the final plan:

1. Order of the move (which items or areas are moved first/last).
2. Timing of the move (date, days, hours, phases).
3. Special handling required (equipment, packing, additional labor, protection).
4. Detach and reinstallation instructions (specific to each piece of machinery, equipment, or item).
5. Inventory list and schematic showing location.
6. Unique circumstances of the move.

The specifications should be complete, specific, and precise to prevent differences in interpretations and disagreement as to how the move is to take place or be reimbursed. Even when the amount to be claimed is a fixed amount as on a negotiated self-move, it should be understood that the negotiated amount presumes a move will be executed in the manner specified, and adjustments to be claimed will be made for deviations. All movers should have the same set of specifications when preparing their bid to move the personal property. The business owner and the RAP Agent should also be present during the walk-through by the movers.

The move specifications are the detailed plan describing the methods and means to be used to execute the move, and can be supplemented with schematics, drawings, layout plans, photos, and a copy of the inventory. The specifications should be developed in consultation with the displaced business operator and the bidders. In specialized or complex business moves, it may be necessary to obtain the assistance of a consultant employed by the displacee who has the expertise in the type of business being moved. The business operator should not be relied on as the sole source of expertise in developing specifications on a complex move. The specifications should be developed and have the concurrence of all parties before bids or estimates are secured. All bids and estimates for the move should be based on the specifications.

The business owner and mover should be aware that deviations from the move specifications may cause delay in reimbursement in order to negotiate cost adjustments. It is best to discuss and resolve any disagreements or reservations about the specifications before the move begins. The RAP Agent must monitor any move that involves a professional consultant or requires detailed specifications. Preparation of accurate moving specifications will help assure that multiple bids or estimates are based on identical instructions. Specifications are also an essential tool for formalizing agreement with the displaced business owner.

Example: A small office equipment sales and repair enterprise will be displaced by the highway project. The company sells typewriters, calculators, etc., but produces most of its revenue from repair services. During the First RAP Call, the RAP Agent obtained the following information:

- Employees - 4
- Business Hours - 9 a.m. to 5 p.m.
- Annual Gross Revenue/Profit: \$470,000/\$50,000
- Concerns:
 - a. Must move in one day.
 - b. Needed repair scheduled; move immediately.
 - c. All electrical service must be grounded.
 - d. Drinking fountain must be reinstalled by a licensed plumber.
 - e. Owner will not pay employees overtime.
 - f. Must avoid mix-up of work tools between various workstations.

The specifications mailed to the moving companies preparing estimates must address the above concerns, and should be documented in writing. (See attached letter as an example.)

**GUIDELINES FOR DEVELOPING MOVING
SPECIFICATIONS (Cont.)**

(Form #)

EXHIBIT

10-EX-36 (REV 5/2012)

Page 2 of 2

“Dear Mover:

The State of California, Department of Transportation (Department), is assisting the “name of company” to obtain firm, lump-sum bids for its forthcoming move from “displacement site” to “replacement site.” The owner has selected your firm and two others to provide these bids. The ultimate award of the moving service is solely at the election of the owner, but reimbursement by the Department will be based on the lowest qualified bid.

The move is anticipated for sixty days (60 days) from today’s date and must be completed in one day. A complete inventory of all items to be moved is attached. The mover will be responsible for reinstallation of the drinking fountain in accordance with local codes and licensing requirements. The new location of the fountain is shown in the attached drawing. The business desires to move the desk and equipment prior to the opening of business on moving day. Accordingly, a separate move must be scheduled for those items prior to 9 a.m. There are five workstations with separate hand tools. Each workstation must be separately packed. The boxed contents should be numbered to correspond to the appropriate station. For all aspects of the move, you will be expected to perform services in a careful workmanlike manner so as to avoid damage. Full replacement value insurance is requested with a personal property valuation of four hundred thirty-five thousand dollars (\$435,000), and a deductible not to exceed one thousand dollars (\$1,000). All racks, worktables, desk and fixtures moved should be placed as shown in the attached new layout plan. The business owner and I will be present during the move to address unforeseen issues.”

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NOTICE OF ELIGIBILITY - 90-DAY AND NON-TENURED OCCUPANT(S)

(Form #)

Date _____

File Reference: _____

Dear _____:

On _____, 20____, the Department of Transportation made an offer to purchase the property that you occupied on that date. As the eligible occupant of the property, you are entitled to certain benefits under the Department’s Relocation Assistance Program. These benefits are briefly outlined below and are discussed in further detail in the brochure that was given to you.

The total dollar amounts have not been calculated at this time. When you are ready to relocate, you must contact your relocation agent, who will verify your occupancy and your rental rate. Your entitlement will then be calculated. Do not obligate yourself to a replacement dwelling until you have had your entitlement calculated. You will be given at least 90 days’ written notice before you will be required to move from the property. As the occupant of the property on the date of the Department’s initiation of negotiations, you are entitled to:

1. **RELOCATION ADVISORY ASSISTANCE:** The Department will assist you in finding a replacement residence. If you wish assistance, contact your relocation agent.
2. **MOVING EXPENSES:** You may select payment based on:
 - A. Fixed Moving Schedule based on number of rooms, OR
 - B. Moving Service Authorization where the Department makes direct payment to an approved commercial mover;

OR

 - C. Actual Cost Move by for-hire carrier based on written estimate and receipted bills.

Your relocation agent will discuss these options with you.

3. **REPLACEMENT HOUSING PAYMENT:** As the occupant of the property on the date of the Department’s initiation of negotiations, you may be eligible for the following benefits:
 - A. **IF YOU RENT REPLACEMENT HOUSING:** A RENT DIFFERENTIAL payment equal to the difference between the lesser of 1) the monthly rental and estimated average monthly cost of utilities for a comparable replacement dwelling as determined by the Department, or 2) the actual monthly rental of your replacement dwelling and estimated average monthly cost of utilities, AND the base monthly rent during the three months immediately prior to vacation from the displacement dwelling, multiplied times 42. Base monthly rent is defined as the lesser of 1) the average monthly cost for rent and utilities at the displacement dwelling, 2) 30% of the household’s gross monthly household income based on your Income Certification, if the total amount is classified as “low income” by the U.S. Department of Housing and Urban Development, or 3) if receiving a welfare assistance payment, the portion of such payment that is specifically designated for shelter and utilities. The Rent Differential is paid in a single payment or in semiannual installments, depending on the payment amount.
 - B. **IF YOU BUY A REPLACEMENT DWELLING:** You may convert the Rent Differential to a Down Payment and certain nonrecurring incidental expenses for a replacement dwelling. In the event the Rent Differential is less than \$5,250, the State will pay the full amount of \$5,250 to be used as a Down Payment and/or payment for incidental purchase expenses. All amounts used as down payments and incidental expenses must be applied to the purchase of the replacement dwelling.

**NOTICE OF ELIGIBILITY - 90-DAY AND NON-TENURED
OCCUPANT(S) (Cont.)**

(Form #)

EXHIBIT
10-EX-39 (REV 5/2012)
Page 2 of 2

You do not have to accept any dwelling referred to you by the Department. You may choose your own replacement, but it must be decent, safe, and sanitary to qualify for replacement housing payments.

To avoid losing part or all of your relocation benefits, **DO NOT MOVE** from your home and **DO NOT CONTRACT** to rent or purchase a replacement dwelling without first contacting your relocation agent whose name is shown below.

The Relocation Assistance Program is very complex; it is important that you read and understand the matters explained in the Uniform Relocation Assistance Program (Residential) brochure which relate to your eligibility. If at any time in the future you want assistance, please contact your relocation agent by writing, telephoning, or visiting him/her at the address listed below.

IMPORTANT: To receive the replacement housing payments outlined under item 3 above, you as a 90-day owner-occupant must rent or purchase and occupy your replacement dwelling within one year from the later of the following two dates: 1) the date you move from the displacement dwelling, or 2) the date the Department has paid the acquisition cost of your current dwelling (usually the close of escrow on the State's acquisition). If you are a 90-day tenant occupant, to be eligible for a rental assistance payment, you must rent and occupy or purchase and occupy a decent, safe, and sanitary dwelling within one year after you move from the displacement dwelling. Failure to act within the one-year period could result in loss of all replacement housing benefits.

The Uniform Act provides that a person may appeal to the head of the responsible department if the person believes that the Department has failed to properly determine the person's eligibility or the amount of the payment authorized by the Uniform Act. You have the right to be represented by legal counsel at your own expense, but their presence is not required. If you still believe a proper determination has not been made by the Relocation Appeals Board, you may seek judicial review. You may submit an appeal in writing to: Caltrans, Right of Way Office, Relocation Appeals Board, 1120 N Street, Sacramento, CA 95814.

Displacees not lawfully present in the United States are ineligible for relocation payments and assistance. Certification of legal U.S. residency status must be on file with the Department for all household members in order to receive benefits.

Sincerely,

_____, Relocation Agent

Relocation Agent Address

Telephone

ACKNOWLEDGEMENT

I was personally contacted by the above agent for the Department of Transportation. I have had the services and entitlements available explained to me. I was further advised that the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed. I have been given a copy of this form letter.

Date _____

Displacee's signature _____

ADA Notice

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**CONDITIONAL ENTITLEMENT LETTER -
90-DAY AND NON-TENURED OCCUPANT(S) (Cont.)**

(Form #)

EXHIBIT
10-EX-40 (REV 5/2012)
Page 2 of 2

This Rent Differential payment amount is available for a period of ninety (90) days from the date of this letter. If you do not rent a replacement property within that time period, this amount will be automatically withdrawn and another calculation will be made at a later date. Should you wish another estimate of your entitlement at a later date, please contact your relocation agent.

Benefits are paid in a single payment or in semiannual installments, depending on the payment amount. These payments should be used to reduce the monthly rent payments at the replacement property. If you do not wish to rent and occupy a replacement dwelling, you may purchase a replacement dwelling and receive assistance in making the down payment. If you are interested in this alternative, ask your relocation agent to provide additional information.

REMEMBER: To receive the replacement housing payments outlined under item 2 above, you as a 90-day owner-occupant must rent or purchase and occupy your replacement dwelling within one year from the later of the following two dates: 1) the date you move from the displacement dwelling, or 2) the date the Department has paid the acquisition cost of your current dwelling (usually the close of escrow on the State's acquisition). If you are a 90-day tenant occupant, to be eligible for a rental assistance payment, you must rent and occupy or purchase and occupy a decent, safe, and sanitary dwelling within one year after you move from the displacement dwelling. Failure to act within the one-year period could result in loss of all replacement housing benefits.

The Uniform Act provides that a person may appeal to the head of the responsible department if the person believes that the Department has failed to properly determine the person's eligibility or the amount of the payment authorized by the Uniform Act. You have the right to be represented by legal counsel at your own expense, but their presence is not required. If you still believe a proper determination has not been made by the Relocation Appeals Board, you may seek judicial review. You may submit an appeal in writing to: Caltrans, Right of Way Office, Relocation Appeals Board, 1120 N Street, Sacramento, CA 95814.

Displacees not lawfully present in the United States are ineligible for relocation payments and assistance. Certification of legal U.S. residency status must be on file with the Department for all household members in order to receive benefits.

Sincerely,

_____, Relocation Agent

Relocation Agent Address

Telephone

ACKNOWLEDGEMENT

I was personally contacted by the above agent for the Department of Transportation. I have had the services and entitlements available explained to me. I was further advised that the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed. I have been given a copy of this form letter.

Date _____

Displacee's signature _____

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NOTICE OF ELIGIBILITY - SUBSEQUENT OCCUPANT(S)

(Form #)

Date _____

File Reference: _____

Dear _____:

On _____, 20____, the Department of Transportation initiated negotiations to purchase the property that you occupy. As the occupant of the property, you are entitled to certain benefits under the Department’s Relocation Assistance Program. These benefits are briefly outlined below. It is important that you understand the conditions that must be met before payments can be made.

YOU WILL NOT BE ELIGIBLE TO RECEIVE ANY RELOCATION PAYMENT IF YOU MOVE PRIOR TO THE COMPLETION OF THE STATE’S ACQUISITION. ALSO, YOU CANNOT RECEIVE ANY RELOCATION PAYMENTS UNTIL YOU HAVE ACTUALLY MOVED FROM THE PROPERTY.

You will be given at least 90 days’ written notice before you will be required to move from the property. As the occupant of the property, you are entitled to:

- 1. RELOCATION ADVISORY ASSISTANCE:** The Department will assist you in finding a replacement dwelling. If you want assistance, contact your relocation agent.
- 2. MOVING EXPENSES:** You may select payment based on:
 - A. Moving Expense Schedule based on number of rooms, OR
 - B. Moving Service Authorization where the Department makes direct payment to a commercial carrier; OR
 - C. Actual Cost Move by for-hire carrier based on written estimates and receipted bills.

Your relocation agent will discuss these options with you.

- 3. REPLACEMENT HOUSING PAYMENT:** You will not be required to move unless comparable replacement housing is available. If it is not, and you wish to relocate, or the Department requires you to relocate, the “Last Resort Housing” Program is available to assist you in renting a comparable replacement property. The features of this program are:

IF YOU RENT REPLACEMENT HOUSING: A RENT DIFFERENTIAL payment to the difference between the lesser of 1) the monthly rental and estimated average monthly cost of utilities for a comparable replacement dwelling as determined by the Department, or 2) the actual monthly rental of your replacement dwelling and estimated average monthly cost of utilities, AND the base monthly rent during the three months immediately prior to vacation from the displacement dwelling, multiplied times 42. Base monthly rent is defined as the lesser of 1) the average monthly cost for rent and utilities at the displacement dwelling, 2) 30% of the household’s gross monthly household income based on your Income Certification, if the total amount is classified as “low income” by the U.S. Department of Housing and Urban Development, or 3) if receiving a welfare assistance payment, the portion of such payment that is specifically designated for shelter and utilities. The Rent Differential is paid in a single payment or in semiannual installments, depending on the payment amount.

You do not have to accept any dwelling referred to you by the Department. You may choose your own replacement, but it must be decent, safe, and sanitary to qualify for replacement housing payments.

NOTICE OF ELIGIBILITY - SUBSEQUENT OCCUPANT(S) (Cont.)

(Form #)

EXHIBIT

10-EX-41 (REV 5/2012)

Page 2 of 2

If you do not wish to rent and occupy a replacement dwelling, you may purchase a replacement dwelling. The down payment amount, if any, is limited to the calculated Rent Differential. If you are interested in this alternative, ask your relocation agent to provide additional information.

When you wish to relocate, please contact your relocation agent, who will explain your current status concerning eligibility for "Last Resort Housing."

In order to avoid losing all or a portion of your relocation benefits, DO NOT MOVE or CONTRACT TO MOVE without contacting the relocation agent.

The Relocation Assistance Program is very complex; it is important that you read and understand the matters explained in the Uniform Relocation Assistance Program (Residential) brochure which relate to your eligibility. If at any time in the future you want assistance, please contact your relocation agent by writing, telephoning, or visiting him/her at the address listed below.

The Uniform Act provides that a person may appeal to the head of the responsible department if the person believes that the Department has failed to properly determine the person's eligibility or the amount of the payment authorized by the Uniform Act. You have the right to be represented by legal counsel at your own expense, but their presence is not required. If you still believe a proper determination has not been made by the Relocation Appeals Board, you may seek judicial review. You may submit an appeal in writing to: Caltrans, Right of Way Office, Relocation Appeals Board, 1120 N Street, Sacramento, CA 95814.

Displacees not lawfully present in the United States are ineligible for relocation payments and assistance. Certification of legal U.S. residency status must be on file with the Department for all household members in order to receive benefits.

Sincerely,

_____, Relocation Agent

Relocation Agent Address

Telephone

ACKNOWLEDGEMENT

I was personally contacted by the above agent for the Department of Transportation. I have had the services and entitlements available explained to me. I was further advised that the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed. I have been given a copy of this form letter.

Date _____ Displacee's signature _____

ADA Notice

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Date _____

File Reference: _____

Dear _____:

On _____, 20___, you were given both written and verbal explanations of the relocation assistance services, benefits and options available to you. In addition to the 90-day notice and advisory assistance, you may be entitled to the following monetary benefits:

1. **MOVING EXPENSES:** Depending on your situation, you may select one of the following options. In rare circumstances, you may be eligible for a combination of the following. You must discuss this fully with your relocation agent.
 - A. Fixed Moving Schedule based on number of rooms. Your entitlement under this option is \$_____ based on _____ rooms of personal property. This entitlement includes a dislocation allowance to connect utilities and/or appliances at the replacement site. OR
 - B. Moving Service Authorization where the Department makes direct payment to an approved commercial mover (see attached list of eligible movers for your area). OR
 - C. Actual Cost Move by for-hire carrier based on the lowest of two written estimates you obtain and submit to the Department. Payment will only be made after you submit paid invoices and proof of payment to the Department.

2. **REPLACEMENT HOUSING PAYMENTS:** Under "Last Resort Housing" guidelines, you are eligible for a RELOCATION ASSISTANCE payment to assist you in renting a replacement dwelling. The Department's MAXIMUM contribution toward your replacement dwelling will be 42 times the difference between the lesser of either: a) the Department's estimate of the monthly cost of rent and estimated average monthly cost of utilities for comparable replacement dwelling, or b) the monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary dwelling actually occupied by the displaced person(s) --AND-- the base monthly rent (as defined below) during the three months before the displacement.

Base monthly rent is defined as the lesser of:

- a) the average monthly cost for rent and utilities at the displacement dwelling,
- b) 30% of the gross monthly income of the displaced person(s) if the total amount is classified as "low income" by the U.S. Department of Housing and Urban Development, or
- c) if receiving a welfare assistance payment, the portion of such payment that is specifically designated for shelter and utilities. Failure to supply adequate income information may result in a delay or denial of benefits.

(If the Department has determined that the rent you are paying is more than 25% below economic rent, then the RENT DIFFERENTIAL payment will be based on other provisions of the law.)

Considering your base monthly rent, including utilities, and the cost of comparable replacement property, the Department's maximum contribution will be: $42 \times \$______ = \$______$

This amount was determined after a thorough review of the available replacement properties with the most consideration given to the dwelling located at _____, California. In order to qualify to be reimbursed for the maximum rent differential amount, you must rent a decent, safe, and sanitary replacement dwelling for at least the amount of rent indicated for this comparable dwelling, or utilize this amount as a down payment and/or payment for incidental purchase expenses. The down payment amount, if any, is limited to the calculated Rent Differential.

**CONDITIONAL ENTITLEMENT LETTER -
SUBSEQUENT OCCUPANT(S) (Cont.)**

(Form #)

EXHIBIT
10-EX-42 (REV 5/2012)
Page 2 of 2

IT IS IMPORTANT that you understand the conditions that must be met before payments can be made. You will not be eligible to receive any relocation payment if you move prior to the completion of the State's acquisition. Also, you cannot receive any relocation payments until you have actually moved from the property.

This Rent Differential payment amount is available for a period of 90 days from the date of this letter. If you do not rent a replacement property within that time period, this amount will be automatically withdrawn, and another calculation will be made at a later date. Should you wish another estimate of your entitlement at a later date, please contact your relocation agent.

Rent Differential benefits are paid in a single payment or in annual installments, depending on the payment amount. These payments should be used to reduce the monthly rent payments at the replacement property.

REMEMBER: To be eligible for a rental assistance payment outlined under item 2 above, you as a Subsequent Occupant must rent and occupy or purchase and occupy a decent, safe, and sanitary dwelling within one year after you move from the displacement dwelling. Failure to act within the one-year period could result in loss of all replacement housing benefits.

The Uniform Act provides that a person may appeal to the head of the responsible department if the person believes that the Department has failed to properly determine the person's eligibility or the amount of the payment authorized by the Uniform Act. You have the right to be represented by legal counsel at your own expense, but their presence is not required. If you still believe a proper determination has not been made by the Relocation Appeals Board, you may seek judicial review. You may submit an appeal in writing to: Caltrans, Right of Way Office, Relocation Appeals Board, 1120 N Street, Sacramento, CA 95814.

Displacees not lawfully present in the United States are ineligible for relocation payments and assistance. Certification of legal U.S. residency status must be on file with the Department for all household members in order to receive benefits.

Sincerely,

_____, Relocation Agent

Relocation Agent Address

Telephone

ACKNOWLEDGEMENT

I was personally contacted by the above agent for the Department of Transportation. I have had the services and entitlements available explained to me. I was further advised that the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed. I have been given a copy of this form letter.

Date _____ Displacee's signature _____

ADA Notice

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**NOTICE OF ELIGIBILITY - BUSINESS, FARM OR
NONPROFIT ORGANIZATION**

(Form #)

Date _____

File Reference: _____

Dear _____:

On _____, 20____, the Department of Transportation made an offer to purchase all or a portion of the property which you occupy. As the eligible occupant of the property, you are entitled to certain benefits under the Department's Relocation Assistance Program. These benefits are outlined below. It is important that you understand the conditions described below which must be met before any payments can be made. Please contact me before you incur any expense.

As the occupant of the property, you are entitled to options 1, 2, and 3 below or you may choose option 4:

1. **RELOCATION ADVISORY ASSISTANCE:** The Department will help you find a new place to conduct your business, farm, or nonprofit organization. Information on and maps of available properties, typical real estate purchase and rental costs, and the services offered by other agencies in the area are also available. If you want assistance, contact your relocation agent.
2. **MOVING AND RELATED EXPENSES:** Businesses, farms, and nonprofit organizations may be paid on the basis of actual reasonable moving and related costs and reestablishment expenses as the Department determines to be reasonable and necessary or, under certain circumstances, a fixed payment. The moving expenses listed below may be considered by the Department:
 - a. Transportation of personal property limited to 50 miles or less. Distances beyond 50 miles are not eligible, unless the Department determines that relocation beyond 50 miles is justified.
 - b. Packing, crating, unpacking, and uncrating of the personal property.
 - c. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, and certain substitute personal property. This includes connection to utilities available nearby. It also includes modifications to personal property necessary to adapt it to the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.
 - d. Storage of the personal property not to exceed 12 months, unless the Department determines that it is not necessary, or that a longer period is necessary. These expenses must be preapproved.
 - e. Insurance for the replacement value of the personal property in connection with the move and necessary storage.
 - f. Any license, permit, fees or certification required of your operation at the replacement location. However, the payment shall be based on the remaining useful life of your existing license, permit, or certification.
 - g. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of your own, your agent, or your employee) where insurance covering such loss, theft, or damage is not reasonably available.
 - h. Professional services necessary for (i) planning the move of the personal property, (ii) moving the personal property, and (iii) installing the relocated personal property at the replacement location, subject to the Department's determination that these services are necessary. These expenses must be preapproved.
 - i. Relettering signs and replacing stationary on hand at the time of displacement that is made obsolete as a result of the move.

**NOTICE OF ELIGIBILITY - BUSINESS, FARM OR
NONPROFIT ORGANIZATION (Cont.)**

(Form #)

EXHIBIT

10-EX-43 (REV 5/2012)

Page 2 of 4

-
- j. Actual direct loss of tangible personal property incurred as a result of moving or discontinuing your operation. The payment shall consist of the lesser of:
- (i) The fair market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, you must make a good faith effort to sell the personal property, unless the Department determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price.); or
 - (ii) The estimated cost of moving the item, but with no allowance for storage nor reassembly of discontinued items. (If your operation is discontinued, the estimated cost shall be based on a moving distance of 50 miles.)
- k. The reasonable cost incurred in attempting to sell an item that is not to be relocated.
- l. Purchase of substitute personal property. If an item of personal property which is used as part of your operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, you will be entitled to payment for the lesser of:
- (i) 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
 - (ii) The estimated cost of moving and reinstalling the replaced item, based on the lowest acceptable bid or estimate obtained by the Department, but with no allowance for storage.
- m. Searching for a replacement location. You are entitled to reimbursement for actual expenses, not to exceed \$2,500, as the Department determines to be reasonable, which are incurred in searching for a replacement location including:
- (i) Transportation.
 - (ii) Meals and lodging away from home.
 - (iii) Time spent searching, based on reasonable salary or earnings.
 - (iv) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site.
- n. Other moving related expenses as the Department determines to be reasonable and necessary.
- o. Provision of utilities from right of way to improvements on the replacement site.
- p. Professional services in connection with the purchase or lease of a replacement site.
- q. Impact fees or one-time assessments for anticipated heavy utility usage.
- r. High Bulk/Low Value payment will allow a payment for personalty that is worth less than the cost to move it to the replacement property as determined by the Department. The moving payment shall not exceed the amount, which you would receive if the property were sold at the site.

CAUTION: In order to qualify for reimbursement of the above-described expenses, you **MUST:**

- A. Provide the Department with a certified list or inventory of the items to be moved at least 30 days in advance of the start of your move;
- B. Notify the Department at least 15 days in advance of the date of the start of your move or disposition of your property;
- C. Permit the Department to monitor the move; and
- D. Permit the Department to make reasonable and timely inspections of the personal property at both the displacement and replacement sites.

Failure to comply with any of the above four (4) requirements may result in your losing part or all of your benefits. You should also be aware that you are not entitled to payment, under the relocation regulations, for: The cost of moving any structure or other real property improvement in which you reserved ownership; Interest on a loan to cover moving expenses; or

- Loss of goodwill;
 - Loss of profits;
-

**NOTICE OF ELIGIBILITY - BUSINESS, FARM OR
NONPROFIT ORGANIZATION (Cont.)**

(Form #)

EXHIBIT
10-EX-43 (REV 5/2012)
Page 3 of 4

- Loss of trained employees;
- Personal injury; or
- Costs for storage of personal property on real property owned or leased by the displaced person.

You may move either by commercial mover or take full responsibility for all or part of the move. If you elect a "self-move," the Department must first obtain at least two (2) acceptable bids or estimates.

-AND-

- 3. REESTABLISHMENT EXPENSES:** In addition to payments available above, a small business, farm, or nonprofit organization may be eligible to receive a payment, not to exceed \$10,000, for expenses actually incurred in relocating and reestablishing at a replacement site. Reestablishment expenses must be reasonable and necessary as determined by the Department. They include, but are not limited to, the following:
- a. Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance.
 - b. Modifications to replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
 - c. Construction and installation costs for exterior signing to advertise the business.
 - d. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
 - e. Advertisement of replacement location.
 - f. Estimated increased costs of operation during the first two years at the replacement site for such items as:
 - 1) Lease or rental charges,
 - 2) Personal or real property taxes,
 - 3) Insurance premiums,
 - 4) Utility charges, excluding impact fees.

You should be aware that you are not entitled to payment under reestablishment regulations for any of the following:

- a. Purchase of capital assets, such as office furniture, filing cabinets, machinery, or trade fixtures.
- b. Purchase of manufacturing material, production supplies, product inventory, or other items used in the normal course of business operation.
- c. Interior or exterior refurbishments at the replacement site, which are purely aesthetic in purpose except as, paid in "d" above.
- d. Interest on money borrowed to make the move or purchase the replacement property.
- e. Payment to a part-time business or in the home, which does not contribute materially to the household income.

-OR-

- 4. FIXED PAYMENT IN LIEU OF PAYMENT FOR ACTUAL MOVING AND RELATED EXPENSES AND REESTABLISHMENT EXPENSES:** In lieu of a payment for actual moving and related expenses and reestablishment expenses, you may elect to receive an amount equal to your business' recent average annual net earnings in an amount not less than \$1,000 nor more than \$20,000. A displaced business is eligible for the payment if the Department determines that:
- 1) The business owns or rents personal property, which must be moved in connection with such displacement and for which an expense would be incurred in such move; and the business vacates or relocates from its displacement site.
 - 2) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the Department determines that it will not suffer a substantial loss of its existing patronage.
 - 3) The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the Department, and which are under the same ownership and engaged in the same or similar business activities.
 - 4) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others.

**NOTICE OF ELIGIBILITY - BUSINESS, FARM OR
NONPROFIT ORGANIZATION (Cont.)**

(Form #)

- 5) The business is not operated at the displacement site solely for the purpose of renting the site to others.
- 6) The business contributed materially to the income of the displaced person during the two taxable years prior to displacement.

Eligibility requirements for farms and nonprofit organizations are slightly different than business requirements. If you are being displaced from a farm or represent a nonprofit organization, and you are interested in a fixed payment, please consult your relocation agent for additional information.

If you lease or rent from the Department, failure to pay necessary rental payments to the Department may reduce the relocation payment that you will receive.

Moving and related payments are not considered as income for the purposes of personal income tax laws. Furthermore, these payments are not considered income or resources to recipients of public assistance. Relocation payments are normally made within 60 days of the date that your completed claim is received by the Department.

You will be given at least 90 days' written notice before you will be required to move from the property.

It is important that you understand the matters explained above which relate to your eligibility. If at any time you want assistance, please contact your relocation agent by writing, telephoning, or visiting him/her at the address listed below.

The Uniform Act provides that a person may appeal to the head of the responsible department if the person believes that the Department has failed to properly determine the person's eligibility or the amount of the payment authorized by the Uniform Act. You have the right to be represented by legal counsel at your own expense, but their presence is not required. If you still believe a proper determination has not been made by the Relocation Appeals Board, you may seek judicial review. You may submit an appeal in writing to: Caltrans, Right of Way Office, Relocation Appeals Board, 1120 N Street, Sacramento, CA 95814.

Displacees not lawfully present in the United States are ineligible for relocation payments and assistance. Certification of legal U.S. residency status must be on file with the Department for all household members in order to receive benefits.

Sincerely,

_____, Relocation Agent

Relocation Agent Address

Telephone

ACKNOWLEDGEMENT

I was personally contacted by the above agent for the Department of Transportation. I have had the services and entitlements available explained to me. I was further advised that the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed. I have been given a copy of this form letter.

Date _____ Displacee's signature _____

ADA Notice

For individuals with disabilities, this document is available in alternate formats. For information, call (916) 654-5413 Voice, CRS: 1-800-735-2929, or write Right of Way, 1120 N Street, MS-37, Sacramento, CA 95814.

LAST RESORT HOUSING GUIDELINES

(Form #)

The usual method of providing last resort housing is to make payments exceeding the statutory limits. Sometimes, making a super RAP payment is not the most cost effective to the Department, nor the appropriate solution for the displacee. Listed below are some examples of ways to provide Last Resort Housing for complex relocation situations.

Last Resort Housing Methods**A. Purchase of Replacement Land and Dwellings**

One method of providing last resort replacement housing is acquisition of real property by R/W Contract. Prior to any firm offer, Appraisal staff must make an appraisal in accordance with the standards in the Appraisal Chapter.

Before requesting approval to purchase, the Region/District must attempt to obtain a written commitment (option) from the seller. This is best accomplished through use of a deposit receipt that provides written documentation of any deposit payment made to seller. The receipt should specify that any deposit will be applied toward the subsequent purchase price. If purchase is not concluded, the deposit is forfeited. The deposit comes from the last resort housing projects funds.

The Department's policy is to avoid condemnation unless no reasonable alternatives exist, in which case only vacant land can be considered for condemnation. The Region/District should consult HQ R/W prior to requesting a condemnation resolution.

Owner-occupied property may be acquired provided the owner voluntarily agrees to sell the property and acknowledges no rights to any relocation payments. Exchange with an owner-occupant can be accomplished using a single escrow that results in the acquisition of displacee's former residence and the transfer of title to the replacement property.

Consequential displacement of tenant-occupants of residential properties must not result from acquisition of property for replacement housing since such displacement would entitle them to RAP benefits.

Tenant-occupants relocate to State-purchased housing that will be sold later are protected by recorded terms of sale specifying obligations to displacees by which purchaser must abide; e.g., rent level and length of terms it will apply.

If the private sector develops housing capable of accommodating displacees, the developer must agree to the Region/District's terms of tenancy for displacees who accept housing. The developer will be paid a contracted amount to incur the obligation of granting Region/District tenant-displacees right of first refusal.

When a replacement housing project is disposed of, the displacee's benefits must be protected. Non-Tenured owners must clearly understand this obligation and protect it by appropriate recordation of rental or lease agreements.

B. Rehabilitation-In-Place of Existing Dwelling

A second method of providing last resort replacement housing is rehabilitation-in-place of unoccupied Caltrans-owned or other existing dwellings to meet the DS&S requirements of project relocatees.

Acquisition of any property should be accomplished as described above.

Rehabilitation should be accomplished as described in the Property Management Chapter.

C. Relocation and Rehabilitation of Existing Dwellings

A third method of providing last resort replacement housing is the relocation and, if necessary, the refurbishment or rehabilitation of dwellings purchased by the State R/W process.

Acquisition of any vacant site for the relocated dwelling should be accomplished as described above.

Relocation and rehabilitation may be accomplished separately by contracting with two contractors or as a package with one contractor.

D. Construction of New Dwellings

A fourth method of providing last resort housing replacement housing is construction of new housing units. The following items should be considered in implementing this alternative:

1. Trustee Selection and Role

A trustee may be a bank, savings and loan association, title company, public agency, or related nonprofit or for profit private sector entity that has demonstrated experience in performing duties as a contracting agent in the development of housing. Use of local trustees is encouraged. Prior to the selection of a trustee, the Region/District shall consult HQ R/W and document the need for a trustee.

Criteria for selection of the most qualified trustee should include previous experience in all of the following:

- Soliciting development proposals.
- Monitoring construction projects.
- Disbursing funds.
- Managing property.

Selection of a trustee should be on a competitive basis. Soliciting proposals from at least three potential trustees is desirable. The Region/District must document all positive and negative responses in Region/District files. Evidence should indicate that all potential trustees were aware of the opportunity. The Region/District and HQ R/W staff will recommend selection of the trustee. The Director of Transportation will make the final selection.

2. Trustee Agreement

The trustee performs the functions required to produce housing under the State's terms and directions contained in the trustee agreement.

The Region/District prepares the trustee agreement and submits it to HQ R/W for Legal's approval as to form and content. Legal staff review is mandatory for interpretation of actions to be taken by the Department with regard to possible conflicting legislation, codes, and governmental policies.

Items to be considered for inclusion in trustee agreements are:

- Scope of Work - including clear definition of trustee's role
- Trustee Fees - consisting of direct and indirect costs and profit percentage. Direct costs include principal personnel time. Clerical services are an hourly charge, based on current rates. Indirect costs include advertising, security, maintenance, and other expenses incurred but not directly performed by the trustee.
- Payment - if interim construction financing is involved, payment procedures, to whom payment will be made, and payment approval requirements.
- Examples - of development proposals and contracts to construct, lease, or otherwise provide housing.
- Scope of Disposal Procedures - to assure that an orderly disposal plan is implemented upon completion of the housing units.
- Subsequent proposals or contracts that vary from the agreement provisions must be approved by Legal through HQ R/W.

3. Small Projects Without A Trustee

When replacement housing construction is a small project and the use of a trustee is not anticipated, the Department may construct last resort housing. This requires coordination with the Region/District Contract Office and the Office Engineer. The Region/District should contact HQ R/W in advance if construction under these circumstances is anticipated.

Date _____

File Reference: _____

Dear _____:

On _____, 20___, the Department of Transportation initiated negotiations to purchase the property that you occupied on that date and you were given written notice of your potential relocation benefits. In addition to the 90-day notice and advisory assistance, you may be entitled to the following monetary benefits:

1. **MOVING EXPENSES:** Depending on your situation, you may select one of the following options. In rare circumstances, you may be eligible for a combination of the following. You must discuss this fully with your relocation agent.
 - A. Moving Expense Schedule based on number of rooms. Your entitlement under this option is \$_____ based on _____ rooms of personal property. This entitlement includes a dislocation allowance to connect utilities and/or appliances at the replacement site. OR
 - B. Moving Service Authorization where the Department makes direct payment to an approved commercial mover (see attached list of eligible movers for your area). OR
 - C. Actual Cost Move by for-hire carrier based on the lowest of two written estimates you obtain and submit to the Department. Payment will only be made after you submit paid invoices and proof of payment to the Department.

2. **REPLACEMENT HOUSING PAYMENT:**
 - A. Should you choose to purchase a replacement property, you may be eligible to receive a PRICE DIFFERENTIAL based on the cost of a comparable dwelling such as the one located at _____. The maximum price differential you may receive is \$_____ if you purchase a decent, safe, and sanitary dwelling (as determined by an inspection performed by the Department) with a total cost of \$_____ or more. In order to qualify to be reimbursed for the maximum price differential amount, you must purchase and occupy a decent, safe, and sanitary replacement dwelling for at least the amount indicated for this comparable dwelling.
 - B. You may also be eligible for a MORTGAGE DIFFERENTIAL based on the term, loan balance and interest rate of your new mortgage at the replacement site. This payment has limits as established by the prevailing market rate as well as the term, loan balance, and interest rate at the property you now occupy. You must work closely with your relocation agent to fully understand this complex payment.
 - C. And last, you may be eligible for INCIDENTAL EXPENSES that you incur when purchasing your replacement property. This payment is based on your nonrecurring, or one-time costs related to closing the escrow. It does not assist with your recurring (periodic) costs such as annual taxes, insurance, or warranties. Again, please work closely with your relocation agent as some of the expenses can be deposited directly into the escrow account for your new home.

If you choose to rent replacement property, you may be eligible to receive a RENT DIFFERENTIAL payment based on the "economic rent" of the property you now occupy, and the rental rate of a comparable replacement property, computed over a 42-month period. The RENT DIFFERENTIAL payment may be zero, but it cannot exceed the amount of the Price Differential. If you think you may wish to rent a replacement property, contact your relocation agent for a calculation of this alternate payment. If you choose to rent your home back from the Department after sale to the Department has been finalized, failure to pay necessary rental payments may reduce the replacement housing payment which you will receive.

**CONDITIONAL ENTITLEMENT LETTER -
180-DAY OWNER-OCCUPANT (Cont.)**

(Form #)

EXHIBIT

10-EX-45 (REV 5/2012)

Page 2 of 2

The Relocation Assistance Program is very complex. It is important that you read and understand the matters explained in the "Uniform Relocation Assistance Program (Residential)" brochure which relate to your eligibility. If at any time in the future you want assistance, please contact your relocation agent by writing, telephoning, or visiting him/her at the address listed on the back of the brochure. To avoid loss of possible benefits, DO NOT commit yourself to purchase or rent a replacement property or move without first contacting your relocation agent.

IMPORTANT: To receive the replacement housing payments outlined under item 2 above, you must rent or purchase and occupy your replacement dwelling within one year from the later of the following two dates: 1) the date at least one comparable replacement dwelling has been made available to you, or 2) the date the Department has paid the acquisition cost of your current dwelling (usually the close of escrow on the State's acquisition). Failure to act within the one-year period could result in loss of all replacement housing benefits.

The Uniform Act provides that a person may appeal to the head of the responsible department if the person believes that the Department has failed to properly determine the person's eligibility or the amount of the payment authorized by the Uniform Act. You have the right to be represented by legal counsel at your own expense, but their presence is not required. If you still believe a proper determination has not been made by the Relocation Appeals Board, you may seek judicial review. You may submit an appeal in writing to: Caltrans, Right of Way Office, Relocation Appeals Board, 1120 N Street, Sacramento, CA 95814.

Displacees not lawfully present in the United States are ineligible for relocation payments and assistance. Certification of legal U.S. residency status must be on file with the Department for all household members in order to receive benefits.

Sincerely,

_____, Relocation Agent

Relocation Agent Address

Telephone

ACKNOWLEDGEMENT

I was personally contacted by the above agent for the Department of Transportation. I have had the services and entitlements available explained to me. I was further advised that the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed. I have been given a copy of this form letter.

Date _____

Displacee's signature _____

ADA Notice

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Date _____

File Reference: _____

Dear _____:

On _____, 20____, the Department of Transportation initiated negotiations to purchase all or a portion of the property located at _____. At the time of the offer, an inventory of personal property was taken and you were identified as the owner. As the owner of the listed personal property, you are entitled to certain relocation benefits under the Department's Relocation Assistance Program. These benefits are outlined below:

1. **RELOCATION ADVISORY ASSISTANCE:** The Department will help you find a new place to relocate your personal property and assist you in making arrangements to move your personal property from the property being required.
2. **MOVING AND RELATED EXPENSES:** You may be reimbursed the cost to relocate your personal property based on actual moving and related costs as the Department determines to be reasonable and necessary. The following moving expenses may be considered by the Department:
 - a. Transportation of personal property limited to 50 miles or less. Distances beyond 50 miles are not eligible, unless the Department determines that relocation beyond 50 miles is justified.
 - b. Packing, crating, unpacking, and uncrating of the personal property.
 - c. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated personal property.
 - d. Storage of the personal property not to exceed 12 months, unless the Department determines that a longer period is necessary.
 - e. Insurance for the replacement value of the personal property in connection with the move and necessary storage.
 - f. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of your own, your agent, or your employee) where insurance covering such loss, theft, or damage is not reasonably available.
 - g. Other moving related expenses as the Department determines to be reasonable and necessary.
 - h. Based on the provision of "low value/high bulk," the Department may determine that the cost of moving the property would be disproportionate to its value, in which case the move payment shall not exceed the amount which would be received if the property were sold at the site.

CAUTION: In order to qualify for reimbursement of the above-described expenses, you **MUST:**

- a. Provide the Department with an updated list of the personal property to be moved at least thirty (30) days in advance of the start of your move;
- b. Notify the Department at least fifteen (15) days in advance of the date of the start of your move or disposition of your property;
- c. Permit the Department to monitor the move and make reasonable and timely inspections of the personal property at both the displacement and replacement sites. Failure to comply with any of the requirements may result in your losing part or all of your benefits.

You should also be aware that you are not entitled to payment, under the relocation regulations, for:

- The cost of moving any structure or other real property improvement in which you reserved ownership;
- Interest on a loan to cover moving expenses;
- Personal injury.

**NOTICE OF ELIGIBILITY - PERSONAL PROPERTY
ONLY (Cont.)**

(Form #)

You may move either by commercial mover or take full responsibility for all or part of the move. If you elect a "self-move," the Department must first obtain at least two (2) acceptable bids or estimates.

If you lease or rent from the Department, failure to pay necessary rental payments to the Department may reduce the relocation payment that you will receive.

Moving and related payments are not considered as income for the purposes of personal income tax laws. Furthermore, these payments are not considered income or resources to recipients of public assistance. Relocation payments are normally made within sixty (60) days of the date that your completed claim is received by the Department.

You will be given at least 90 days' written notice before you will be required to move the personal items from the property.

It is important that you understand the matters explained above which relate to your eligibility. If at any time you want assistance, please contact your relocation agent by writing, telephoning, or visiting me at the address listed below.

The Uniform Act provides that a person may appeal to the head of the responsible department if the person believes that the Department has failed to properly determine the person's eligibility or the amount of the payment authorized by the Uniform Act. You have the right to be represented by legal counsel at your own expense, but their presence is not required. If you still believe a proper determination has not been made by the Relocation Appeals Board, you may seek judicial review. You may submit an appeal in writing to: Caltrans, Right of Way Office, Relocation Appeals Board, 1120 N Street, Sacramento, CA 95814.

Displacees not lawfully present in the United States are ineligible for relocation payments and assistance. Certification of legal U.S. residency status must be on file with the Department for all household members in order to receive benefits.

Sincerely,

_____, Relocation Agent

Relocation Agent Address

Telephone

ACKNOWLEDGEMENT

I was personally contacted by the above agent for the Department of Transportation. I have had the services and entitlements available explained to me. I was further advised that the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed. I have been given a copy of this form letter.

Date _____ Displacee's signature _____

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**NOTICE OF ELIGIBILITY - 180-DAY OWNER-OCCUPANT
MOBILE HOME**

(Form #)

Date _____

File Reference: _____

Dear _____:

On _____, 20____, the Department of Transportation made an offer to purchase the property that you occupied on that date. As the eligible owner-occupant of the property, you are entitled to certain benefits under the Department's Relocation Assistance Program. These benefits are briefly outlined below and are discussed in further detail in the brochure that was given to you. As the owner-occupant of the property on the date of the Department's initiation of negotiations, your basic entitlements are:

- 1. **RELOCATION ADVISORY ASSISTANCE:** The Department will assist you in finding a replacement residence.
- 2. **MOVING EXPENSES:** You may select payment based on:
 - A. Moving Expense Schedule based on number of rooms, OR
 - B. Moving Service Authorization where the Department makes direct payment to an approved commercial mover, OR
 - C. Actual Cost Move by for-hire carrier based on at least two written estimates and receipted bills.
- 3. **REPLACEMENT HOUSING PAYMENT:** Having owned and occupied the property for 180 or more consecutive days immediately preceding the Department's first offer, you may be eligible for monetary assistance to purchase comparable replacement housing. The replacement housing payment includes a price differential, a mortgage differential, and an incidental expense.
 - A. **PRICE DIFFERENTIAL.** This is to cover the increased cost you may have to pay when you buy a new home. It is the difference between the cost of a comparable replacement dwelling as determined by the Department, or if less, the cost of the replacement dwelling you select, and the price paid by the Department for your home.
 - B. **MORTGAGE DIFFERENTIAL.** To help pay your increased interest cost, if any.
 - C. **INCIDENTAL EXPENSE.** A payment to cover some of the closing costs you may incur in purchasing a replacement dwelling.
 - D. **SPACE RENT DIFFERENTIAL.** You also may be eligible for monetary assistance for the increased cost you may have to pay for space rent at a comparable replacement site.

OR

 - E. If you choose not to purchase a replacement property, you may be eligible for RENTAL ASSISTANCE should you rent a comparable replacement property. This payment is in lieu of the Price Differential, Mortgage Differential, and Incidental Expense.

**NOTICE OF ELIGIBILITY - 180-DAY OWNER-OCCUPANT
MOBILE HOME (Cont.)**

(Form #)

EXHIBIT
10-EX-47 (REV 5/2012)
Page 2 of 2

To avoid losing part or all of your relocation benefits, DO NOT MOVE from your home and DO NOT CONTRACT to rent or purchase a replacement dwelling without first contacting your relocation agent whose name is shown below. You will be given at least 90 days' written notice, and the address of at least one comparable replacement property, before you are required to move.

IMPORTANT: To receive the replacement housing payments outlined under item 3 above, you must rent or purchase and occupy your replacement dwelling within one year from the later of the following two dates: 1) the date at least one comparable replacement dwelling has been made available to you, or 2) the date the Department has paid the acquisition cost of your current dwelling (usually the close of escrow on the State's Acquisition). Failure to act within the one-year period could result in loss of all replacement housing benefits.

The Uniform Act provides that a person may appeal to the head of the responsible department if the person believes that the Department has failed to properly determine the person's eligibility or the amount of the payment authorized by the Uniform Act. You have the right to be represented by legal counsel at your own expense, but their presence is not required. If you still believe a proper determination has not been made by the Relocation Appeals Board, you may seek judicial review. You may submit an appeal in writing to: Caltrans, Right of Way Office, Relocation Appeals Board, 1120 N Street, Sacramento, CA 95814.

Displacees not lawfully present in the United States are ineligible for relocation payments and assistance. Certification of legal U.S. residency status must be on file with the Department for all household members in order to receive benefits.

Sincerely,

_____, Relocation Agent

Relocation Agent Address

Telephone

ACKNOWLEDGEMENT

I was personally contacted by the above agent for the Department of Transportation. I have had the services and entitlements available explained to me. I was further advised that the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed. I have been given a copy of this form letter.

Date _____ Displacee's signature _____

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Date _____

File Reference: _____

Dear _____:

On _____, 20____, the Department of Transportation made an offer to purchase the property that you occupied on that date and you were given written notice of your potential relocation benefits. In addition to the 90-day notice and advisory assistance, you may be entitled to the following monetary benefits:

1. **MOVING EXPENSES:** Depending on your situation, you may select one of the following options. In rare circumstances, you may be eligible for a combination of the following. You must discuss this fully with your relocation agent.
 - A. Moving Expense Schedule based on number of rooms. Your entitlement under this option is \$_____ based on _____ rooms of personal property. This entitlement includes a dislocation allowance to connect utilities and/or appliances at the replacement site. OR
 - B. Moving Service Authorization where the Department makes direct payment to an approved commercial mover (see attached list of eligible movers for your area). OR
 - C. Actual Cost Move by for-hire carrier based on the lowest of two written estimates you obtain and submit to the Department. Payment will only be made after you submit paid invoices and proof of payment to the Department.

2. **REPLACEMENT HOUSING PAYMENT:**

- A. Should you choose to purchase a replacement property, you may be eligible to receive a PRICE DIFFERENTIAL based on the cost of a comparable dwelling such as the one located at _____. The maximum price differential you may receive is \$_____ if you purchase a decent, safe, and sanitary dwelling (as determined by an inspection performed by the Department) with a total cost of \$_____ or more. In order to qualify to be reimbursed for the maximum price differential amount, you must purchase and occupy a decent, safe, and sanitary replacement dwelling for at least the amount indicated for this comparable dwelling.
- B. You may also be eligible for a MORTGAGE DIFFERENTIAL based on the term, loan balance, and interest rate of your new mortgage at the replacement site. This payment has limits as established by the prevailing market rate as well as the term, loan balance, and interest rate at the property you now occupy. You must work closely with your relocation agent to fully understand this complex payment.
- C. And last, you may be eligible for INCIDENTAL EXPENSES that you incur when purchasing your replacement property. This payment is based on your nonrecurring, or one-time costs related to closing the escrow. It does not assist with your recurring (periodic) costs such as annual taxes, insurance, or warranties. Again, please work closely with your relocation agent as some of the expenses can be deposited directly into the escrow account for your new home.
- D. And last, you may be eligible to receive a SPACE RENT DIFFERENTIAL payment based on the amount required to rent a comparable space. The maximum amount of the space rent differential is \$_____. This calculation is based on a thorough review of the available mobile home spaces located in/at _____.

If you choose to rent replacement property, you may be eligible to receive a RENTAL ASSISTANCE payment based on the "economic rent" of the property you now occupy, and the rental rate of a comparable replacement property, computed over a 42-month period. The RENTAL ASSISTANCE PAYMENT may be zero, but it cannot exceed the amount of the Price Differential. If you think you may wish to rent a replacement property, contact your relocation agent for a calculation of this alternate payment. If you choose to rent your home back from the Department after sale to the Department has been finalized, failure to pay necessary rental payments may reduce the replacement housing payment which you will receive.

**CONDITIONAL ENTITLEMENT LETTER -
180-DAY OWNER-OCCUPANT MOBILE HOME (Cont.)**

(Form #)

EXHIBIT
10-EX-48 (REV 5/2012)
Page 2 of 2

The Relocation Assistance Program is very complex. It is important that you read and understand the matters explained in the "Uniform Relocation Assistance Program (Residential)" brochure which relate to your eligibility. If at any time in the future you want assistance, please contact your relocation agent by writing, telephoning, or visiting him/her at the address listed on the back of the brochure. To avoid loss of possible benefits, DO NOT commit yourself to purchase or rent a replacement property or move without first contacting your relocation agent.

IMPORTANT: To receive the replacement housing payments outlined under item 2 above, you must rent or purchase and occupy your replacement dwelling within one year from the later of the following two dates: 1) the date at least one comparable replacement dwelling has been made available to you, or 2) the date the Department has paid the acquisition cost of your current dwelling (usually the close of escrow on the State's acquisition). Failure to act within the one-year period could result in loss of all replacement housing benefits.

The Uniform Act provides that a person may appeal to the head of the responsible department if the person believes that the Department has failed to properly determine the person's eligibility or the amount of the payment authorized by the Uniform Act. You have the right to be represented by legal counsel at your own expense, but their presence is not required. If you still believe a proper determination has not been made by the Relocation Appeals Board, you may seek judicial review. You may submit an appeal in writing to: Caltrans, Right of Way Office, Relocation Appeals Board, 1120 N Street, Sacramento, CA 95814.

Displacees not lawfully present in the United States are ineligible for relocation payments and assistance. Certification of legal U.S. residency status must be on file with the Department for all household members in order to receive benefits.

Sincerely,

_____, Relocation Agent

Relocation Agent Address

Telephone

ACKNOWLEDGEMENT

I was personally contacted by the above agent for the Department of Transportation. I have had the services and entitlements available explained to me. I was further advised that the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed. I have been given a copy of this form letter.

Date _____ Displacee's signature _____

ADA Notice

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**NOTICE OF ELIGIBILITY -
180-DAY OWNER-OCCUPANT**

(Form #)

Date _____

File Reference: _____

Dear _____:

On _____, 20____, the Department of Transportation made an offer to purchase the property that you occupied on that date. As the eligible owner-occupant of the property, you are entitled to certain benefits under the Department's Relocation Assistance Program. These benefits are briefly outlined below and are discussed in further detail in the brochure that was given to you. As the owner-occupant of the property on the date of the Department's initiation of negotiations, your basic entitlements are:

1. **RELOCATION ADVISORY ASSISTANCE:** The Department will assist you in finding a replacement residence.
 2. **MOVING EXPENSES:** You may select payment based on:
 - A. Moving Expense Schedule based on number of rooms, OR
 - B. Moving Service Authorization where the Department makes direct payment to an approved commercial mover, OR
 - C. Actual Cost Move by for-hire carrier based on at least two written estimates and receipted bills.
 3. **REPLACEMENT HOUSING PAYMENT:** Having owned and occupied the property for 180 or more consecutive days immediately preceding the Department's first offer, you may be eligible for monetary assistance to purchase comparable replacement housing. The replacement housing payment includes a price differential, a mortgage differential, and an incidental expense.
 - A. **PRICE DIFFERENTIAL.** This is to cover the increased cost you may have to pay when you buy a new home. It is the difference between the cost of a comparable replacement dwelling as determined by the Department, or if less, the cost of the replacement dwelling you select, and the price paid by the Department for your home.
 - B. **MORTGAGE DIFFERENTIAL.** To help pay your increased interest cost, if any.
 - C. **INCIDENTAL EXPENSE.** A payment to cover some of the closing costs you may incur in purchasing a replacement dwelling.
- OR
- D. If you choose not to purchase a replacement property, you may be eligible for a **RENT DIFFERENTIAL** payment should you rent a comparable replacement property. This payment is in lieu of the Price Differential, Mortgage Differential, and Incidental Expense.

**NOTICE OF ELIGIBILITY -
180-DAY OWNER-OCCUPANT (Cont.)**

(Form #)

EXHIBIT
10-EX-49 (REV 5/2012)
Page 2 of 2

To avoid losing part or all of your relocation benefits, **DO NOT MOVE** from your home and **DO NOT CONTRACT** to rent or purchase a replacement dwelling without first contacting your relocation agent whose name is shown below. You will be given at least 90 days' written notice, and the address of at least one comparable replacement property, before you are required to move.

IMPORTANT: To receive the replacement housing payments outlined under item 3 above, you must rent or purchase and occupy your replacement dwelling within one year from the later of the following two dates: 1) the date at least one comparable replacement dwelling has been made available to you, or 2) the date the Department has paid the acquisition cost of your current dwelling (usually the close of escrow on the State's Acquisition). Failure to act within the one-year period could result in loss of all replacement housing benefits.

The Uniform Act provides that a person may appeal to the head of the responsible department if the person believes that the Department has failed to properly determine the person's eligibility or the amount of the payment authorized by the Uniform Act. You have the right to be represented by legal counsel at your own expense, but their presence is not required. If you still believe a proper determination has not been made by the Relocation Appeals Board, you may seek judicial review. You may submit an appeal in writing to: Caltrans, Right of Way Office, Relocation Appeals Board, 1120 N Street, Sacramento, CA 95814.

Displacees not lawfully present in the United States are ineligible for relocation payments and assistance. Certification of legal U.S. residency status must be on file with the Department for all household members in order to receive benefits.

Sincerely,

_____, Relocation Agent

Relocation Agent Address

Telephone

ACKNOWLEDGEMENT

I was personally contacted by the above agent for the Department of Transportation. I have had the services and entitlements available explained to me. I was further advised that the Department of Transportation Relocation Assistance Program is available to assist me if any questions arise or as assistance is needed. I have been given a copy of this form letter.

Date _____ Displacee's signature _____

ADA Notice

For individuals with disabilities, this document is available in alternate formats. For information, call (916) 654-5413 Voice, CRS: 1-800-735-2929, or write Right of Way, 1120 N Street, MS-37, Sacramento, CA 95814.

**NOTICE OF ELIGIBILITY - NONOCCUPANT OWNER
LEASING SPACE TO OTHERS**

(Form #)

Date _____

File Reference: _____

Dear _____:

On _____, 20____, the Department of Transportation made an offer to purchase all or a portion of the property that you own. As a potential eligible owner of the property, you may be eligible for certain benefits under the Department’s Relocation Assistance Program if the Department determines you meet the following criteria:

1. You lease or rent the entire property to another and you have no personal property nor do you conduct any business at this site.
2. The leasing or rent activity is a legitimate business and not considered an investment as determined by a review of your income tax records.
3. The income from the lease or rented site contributed materially to your income.
4. Your operation is considered a “small business” and is not a franchise or chain operation.

If it is decided that you meet the above criteria, you may be eligible for a Non-Occupant Owner Reestablishment Payment that is outlined below. *It is vitally important that you understand the conditions described below which must be met before any payments can be made.*

As a small business owner, you may be eligible to receive a payment, not to exceed \$10,000, for expenses actually incurred in relocating and reestablishing your leasing activity at a replacement site. Reestablishment expenses must be reasonable and necessary as determined by the Department. They may 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 replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
3. Construction and installation costs for exterior signing to advertise the business.
4. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
5. Advertisement of replacement location.
6. Estimated increased costs of operation during the first two years at the replacement site for such items as:
 - 1) Lease or rental charges.
 - 2) Personal or real property taxes.
 - 3) Insurance premiums.
 - 4) Utility charges, excluding impact fees.

**NOTICE OF ELIGIBILITY - NONOCCUPANT OWNER
LEASING SPACE TO OTHERS (Cont.)**

(Form #)

EXHIBIT

10-EX-50 (REV 5/2012)

Page 2 of 3

In order to receive relocation benefits, you must, within 18 months of the Department's acquisition of your property:

1. Acquire a new replacement property; other property acquired prior to the Department's initiation of negotiations for this site is ineligible.
2. The new site must be leased or rented to another as evidenced by an executed agreement with the proposed occupant.
3. Provide documentation (invoices, proof of payment, contracts) to be reimbursed for any of the eligible expenses as listed above.

To ensure you expend funds on items that are considered eligible for reimbursement, you should review proposed expenditures with your Relocation Agent prior to entering into any contractual agreements.

However, you should be aware that you are not entitled to payment under reestablishment regulations for any of the following:

- Purchase of capital assets, such as office furniture, filing cabinets, machinery or trade fixtures.
- Purchase of manufacturing material, production supplies, product inventory or other items used in the normal course of the business operation.
- Interest on money borrowed to make the move or purchase the replacement property.
- Any expenditures related to any other property you had owned prior to the Department's initiation of negotiations to acquire this property.

Under the Relocation Assistance Advisory Assistance Program, the Department will assist you in finding a replacement property. If you want assistance, please contact your relocation advisor.

Reestablishment expenses are not considered as income for the purposes of personal income tax laws. Relocation payments are normally made within 60 days of the date that the Department receives your completed claim.

Your lessee or tenant will be given at least 90 days' written notice before they will be required to move their personal property from this real property. You will be given an opportunity to rent the vacated site to the Department at fair market value if the acquisition of the site has not been completed.

It is important that you understand the matters explained above which relate to your eligibility. If at any time you want assistance, please contact me by writing, telephoning, or visiting me at the address listed below.

IMPORTANT: To receive payment for reestablishment expenses outlined above, you must file a claim for expenses actually incurred in reestablishing the small business at a replacement site within 18 months after the displacement or the date of the final payment for the acquisition of your real property, whichever is later.

**NOTICE OF ELIGIBILITY - NONOCCUPANT OWNER
LEASING SPACE TO OTHERS (Cont.)**

(Form #)

EXHIBIT
10-EX-50 (REV 5/2012)
Page 3 of 3

The Uniform Act provides that a person may appeal to the head of the responsible department if the person believes that the Department has failed to properly determine the person’s eligibility or the amount of the payment authorized by the Uniform Act. You have the right to be represented by legal counsel at your own expense, but their presence is not required. If you still believe a proper determination has not been made by the Relocation Appeals Board, you may seek judicial review. You may submit an appeal in writing to: Caltrans, Right of Way Office, Relocation Appeals Board, 1120 N Street, Sacramento, CA 95814.

Displacees not lawfully present in the United States are ineligible for relocation payments and assistance. Certification of legal U.S. residency status must be on file with the Department for all business owners in order to receive benefits.

Sincerely,

_____, Relocation Agent

Relocation Agent Address

Telephone

ACKNOWLEDGEMENT

I was personally contacted by the above Relocation Agent for the Department of Transportation. I have had the available services and entitlements explained to me. I have been advised that the Department of Transportation Relocation Services Section will be available to assist me if any questions arise or assistance is needed. I have been given a copy of this letter.

Date _____ Displacee’s signature _____

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