

Non Federal Sponsor Guide to Land Acquisition



**US Army Corps Of Engineers,
Mobile District, Real Estate Division**

NOTE: This package contains samples of real estate requirements for post-PPA activities. Some of the samples herein may not be applicable to your particular project. All questions should be directed to the Mobile District real estate representative or Project Manager.

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GENERAL INFORMATION

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REAL ESTATE DIVISION

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INTRODUCTION

**“BEFORE ANY PROJECT CAN BE CONSTRUCTED,
THERE MUST BE LAND ON WHICH TO BUILD”**

1. RESPONSIBILITIES

A major project responsibility for Non-Federal Sponsors (NFS) eligible for Federal funding involves the acquisition of real property and the possible permanent or temporary relocation of residents, businesses, and others. Concern for fair and equitable treatment in acquiring private property for public purposes goes back to the beginnings of the United States. The founding fathers placed a high value on the protection of private property. The United States Constitution expresses this philosophy in the Fifth Amendment, where ‘due process’ and ‘just compensation’ are required for taking private property for a ‘public use.’

- a. U.S. Army Corps of Engineers (USACE):** It is the responsibility of Mobile District Real Estate Division to insure that all real estate is available for each project constructed by the Corps of Engineers within the District’s boundaries. While the Project Manager has the responsibility for overall coordination of the project, it is the responsibility of the Real Estate Division to coordinate with the Sponsor in the acquisition of all real estate interests necessary for the project.

- b. Non-Federal Sponsor (NFS).** In Project Partnership Projects, real estate acquisition has traditionally been and continues to be the responsibility of the Sponsor. Close coordination is required between the Sponsor and the Mobile District Real Estate Division because of the interrelationship between the project design and real estate requirements. Extreme care should be taken to insure that land acquisition meets the milestones as established by the Sponsor and the Corps of Engineers.

2. GENERAL REQUIREMENTS

The cost-sharing provisions contained in the Project Partnership Agreement (PPA) between the Corps of Engineers and the Sponsor are required by the Water Resources Development Act of 1986 (Public Law 99-662). Typically for a PPA, the Sponsor is required to provide all the lands, easements, rights-of-way, relocations, and disposal areas (LERRDs) necessary for the construction and operation & maintenance of the project. Furthermore, these LERRDs should be retained in public ownership for uses compatible with the authorized purposes of the project.

The Sponsor must contribute a specific percentage of the *total project costs* as stipulated in the PPA. The PPA will also require that a stipulated percentage of the Sponsors contribution be in cash prior to awarding the construction contract.

The Sponsor is given credit for the fair market value of the LERRDs at the time that the lands are made available for the project, as determined by an appraisal obtained by the Sponsor. For LERRDs acquired by the Sponsor within a five-year period prior to the date of the PPA is signed, or any time after the agreement is signed, the credit will also include the costs of acquisition such as closing and title costs, appraisal costs, survey and mapping costs, attorney's fees and other administrative costs. In addition, the costs of providing relocation assistance to persons and businesses displaced by the project are also creditable. These provisions are typically set forth in Articles III and IV of the PPA.

The Sponsor is not entitled to receive credit against its cost-share for lands that have been previously provided for use in a federal or federally funded project unless the federal agency providing the federal portion of such funds verifies in writing that affording credit for the value of such items is expressly authorized by federal law.

Typically, land acquisition for the project begins after the PPA is signed by both parties. Occasionally, the Sponsor will begin this process before the PPA is finalized. However, the Sponsor should be aware that all actions taken before the formal execution of the PPA are at their own risk. This risk is normally acknowledged by the Sponsor during the Feasibility Phase by means of a Risk Notification Letter that is routed to the Sponsor by the Mobile District Real Estate Division.

To further simplify this acquisition and crediting process, a **Post-PPA To-Do List and Real Estate Milestone Checklist** is titled **Section 1** and enclosed herein.

3. ADDITIONAL INTRODUCTORY GUIDELINES AND POTENTIAL PITFALLS ENCOUNTERED IN LAND ACQUISITIONS

Federal Commitments: No governmental entity may make any commitment for the United States of America without the prior consent of the United States Congress. The Corps of Engineers therefore, has no authority to accept or commit to open-ended responsibilities or restrictions to which a NFS may bind itself.

Environmental Mitigation: In order for a project to be approved by Congress, a National Environmental Policy Act (NEPA) document must be prepared by the appropriate agency, typically during the feasibility phase of the project. Frequently, in order to minimize the impact to the environment, the project must include wetland and wildlife habitat mitigation and other conservation measures. The remedial actions proposed in the NEPA document then become a part of the project scope from which the Corps of Engineers cannot substantially deviate without amending the document. Any use restrictions placed on the lands, which are inconsistent with these measures, should not be considered.

Hazardous, Toxic, and Radioactive Waste: The increasingly stringent regulatory requirements regarding hazardous toxic and radioactive wastes (HTRW), including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), Toxic Substance Control Act (TOSCA), the Clean Water Act, Resource Conservation Recovery Act (RCRA), and state and local regulations are a mutual concern for the Corps of Engineers and its project partners. When evaluating the feasibility of Federal interest in a project, an environmental evaluation is performed by the appropriate agency (e.g. USACE) during the feasibility phase to explore the potential for HTRW on the site(s). The intent of this evaluation is to analyze the risk of HTRW prior to making a substantial investment. If the evaluation discloses a substantial risk from HTRW, further study will focus on alternative design possibilities, delay or inability to use the lands and the cost impacts. The project agreement with the NFS, however, contemplates that the lands will be delivered free of HTRW and assigns responsibility for any necessary cleanup, as well as all related costs, to the NFS.

Land Acquisition Schedule: The scheduling of land acquisition activities is often inadequately planned. As such, it is helpful to develop a plan that tracks backwards from the start of construction taking into account: the resources needed to accomplish the acquisition work, the length of time required for surveys, appraisals, mapping/legal descriptions, title evidence, negotiations and condemnation proceedings (if anticipated), and other work required in the acquisition process. Additional time should be provided for possible dealings with entities such as corporations, utilities and railroads and public agencies that frequently require a significant amount of time to secure approved real estate transactions. Some cushion should be built into the overall plan schedule to insure construction awards will not be held up pending land acquisition. Therefore, the acquisition schedule should be closely coordinated between the NFS, project manager, and Real Estate Division.

Rights-of-Way: During the planning phase, the most frequently overlooked real estate interests to be acquired relate to right-of-ways controlled by public utilities and local agencies. It is duly noted that construction projects can be held up pending resolution of needed rights over pipelines, roadways, and utilities. In mapping ownership of tracts, care should be taken to include all tracts and easement areas. State legal requirements and case law in this area should be closely scrutinized, particularly concerning applicability and extent of compensation.

Utility Relocations: The relocation of utilities frequently involves complex and protracted negotiations. Timing, expansion capability, environmental concerns, engineering solutions and costs are typical key issues requiring internal discussions and approvals through many layers of management of the affected utility company. Furthermore, condemnation proceedings against these utilities can require hearings and approval by the State's utility commission, which are subject to appeal. Only after this process is completed can the condemnation proceedings be heard. These factors must be considered when preparing the aforementioned acquisition schedule.

Betterments: Relocation negotiations often focus around providing the displaced with replacement facilities which are satisfactory to them. The displaced often seek special concessions, anticipating that the NFS may be reluctant to initiate condemnation proceedings. If a NFS chooses to grant concessions it should be aware that the costs for "betterments" are not eligible for credit. Credit will be given only for the value of equivalent facilities.

Contracts for Operation and Maintenance (O&M): Non-Federal Sponsors may and often do contract the operations and maintenance to others. When the work is contracted, care should be taken in

negotiating and drafting the agreement to insure that the contractor's responsibilities mirror the Project Partnership Agreement (PPA) and Operations and Maintenance Manual.

Contracting for Appraisals: A very important aspect of the Federal land acquisition process is appraisal contracts. It is the Non-Federal Sponsor's responsibility is to furnish appraisals for required land and estates. The appraisal, which forms the basis for the offer of just compensation for lands and estates within the project limits, must conform to government requirements. They are subject to review and approval by the Real Estate Division. At times, the appraisals submitted do not meet government requirements and must be revised. Contract appraisers frequently resist demands to redraft their reports, especially if they have already been paid by the NFS. As such, care should be taken to obtain an acceptable appraisal prior to moving ahead with acquisition. Additional information concerning appraisal requirements is further set out in Step #5 herein.

GENERAL ACQUISITION STEPS & PROCEDURES

The steps for the acquisition of LERRDs for a project are outlined below and are designed to coordinate with the credit review process and will further ensure that the real estate is available for construction to proceed without delay. In addition, these steps will help the Sponsor receive maximum allowable credit for the acquired real estate.

Note that these steps are arranged by subject matter and are, for the most part, in chronological order. However, there is a substantial overlap when elements of more than one step will be performed at the same time. For example, the Sponsor should begin the process of contracting for appraisal services as soon as possible, even though it is set forth in Step 5.

STEP #1: TRANSMITTAL OF FINAL ACQUISITION DRAWINGS

The process begins with the transmittal of the final project plans and specifications to the Sponsor by the Corps of Engineers Project Manager, along with the formal direction to acquire the real estate interests necessary to construct the project. The Sponsor is instructed to acquire the minimum real estate interest necessary for the project, which will typically be a type of easement.

The final acquisition drawings will identify all of the real estate interests to be acquired and their locations. Accompanying the drawings will be a standardized wording for each real estate interest, which is referred to as the "*recommended estate*."

The significance of following the "*recommended estate*" is that the Corps of Engineers is provided access to the lands necessary to construct the project by means of an authorization for entry or right-of-entry from the NFS. The rights being granted in this right-of-entry are extensions of the interests acquired by the NFS. Therefore, the Corps has standardized the various real estate interests that may be required in terms of "estates." These "estates" contain specific, time-tested, language addressing provisions for a variety of land interests. Any substantive deviations from these standard estates require the recommendation of the Real Estate Division and approval from USACE HQ, which can be a lengthy process. A comprehensive list of current "*standard or recommended estates*" is provided in **Section 2** enclosed herein.

The NFS should refer to the Real Estate Plan (REP) Appendix of the Feasibility Report to obtain the "recommended estate" for the proposed project. The NFS may acquire the full fee interest in any or all of the tracts, but credit will be given only for the value of the recommended estates, and the appraisals should value those interests, unless prior approval is granted in the REP or authority is separately obtained for a greater estate.

STEP #2: SURVEY OF PROJECT BOUNDARIES

The first duty of the Sponsor is to obtain a property line survey for the project boundary. The right-of-way drawings may locate the project boundary within a coordinate system, and show the ties to the appropriate land survey system. However, it will be necessary for the Sponsor to completely describe the project boundaries by bearings and distance. In addition to surveying the project boundary, a survey will be required along the acquisition lines for each of the different estates proposed to be acquired. Prior

approval from the property owner(s) in the form of a Right-of-Entry for Survey & Exploration should be obtained by the Sponsor or the Contractor before commencement of the survey.

Section 3 of this NFS package contains a sample Right-of-Entry form that may be used for this purpose. If the survey indicates a need for adjustments to coordinates, the Corps must concur with any changes. From the survey, the Sponsor should develop a survey map, which should be sent to the Real Estate Division for review and comparison with the right-of-way drawings.

Note: State law may provide immunity of licensed professional surveyors from criminal liability for trespass. In the State of Mississippi for instance, a licensed professional surveyor may enter in or upon public or private lands or waters, except buildings, while in the lawful performance of surveying duties without criminal liability for trespass. However, a surveyor is required to make a good faith attempt to announce and identify himself and his intentions before entering upon private property and must present sufficient documentation to identify him as a surveyor to anyone requesting such information. Therefore, the NFS should determine what surveying laws and standards apply in their particular State.

STEP #3: OWNERSHIP MAPPING AND LEGAL DESCRIPTIONS

A "tract" is what the Corps of Engineers Real Estate Division calls each individual parcel in the project under separate ownership, and is the basic unit of review used by the Real Estate Division to determine real estate credits for the Sponsor. After the survey, the Sponsor prepares a legal description and tract map for the each tract affected by the project. Several tracts may be identified on each map for each segment of the project in order to minimize the total number of segment sheets. Before ordering appraisals or title evidence, there should be a joint review of the survey information between the Sponsor, Project Manager, and the Real Estate Division to insure that all required lands for the project have been included in the Sponsor's acquisition plans. A sample Segment Map which depicts tracts proposed for acquisition is enclosed in **Section 4** herein.

STEP #4: TITLE EVIDENCE

After the identification of all LERRDs by the survey, the Sponsor should initiate the title process in order to obtain the proof of ownership and title evidence for each tract from an American Land Title Association (ALTA)® approved law firm or title company. If the title evidence (i.e. commitment) reveals additional interests or extensive curative issues due to outstanding land rights or clouded title that could affect the project, then the Sponsor should submit copies of the title evidence to the Real Estate Division for review and discussion.

STEP #5: APPRAISAL

Written Contract: A written contract should be entered into between the Sponsor and the contract appraiser. The contract should provide controls necessary for timely completion of the appraisal reports. The appraisals shall be based on state rules of compensation as established under state law and in compliance with Public Law 91-646.

The PPA provides that the fair market value of each tract in the project shall be determined by an appraisal of the property provided by the Sponsor. Several tracts containing a single ownership may be

grouped in one appraisal if deemed convenient and prior coordination with the Real Estate Division is made. The landowner, or owner's representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property. The appraisals must be prepared by a qualified, independent appraiser selected by the Sponsor and approved by the Corps of Engineers Review Appraiser prior to initiation of the appraisal process. A copy of each appraisal must be submitted to the Corps of Engineers Review Appraiser where it will be reviewed and approved prior to negotiations and to assure that full credit is allowable.

Appraisal Waiver: Appraisals are always required for negotiations and crediting purposes. If an approved acquisition appraisal is available, it can be utilized for credit purposes. However, for uncomplicated low value tracts where the anticipated fair market value is estimated at \$10,000 or less (exclusive of administrative cost), the requirement for a formal appraisal of the individual tract may be waived. If an appraisal is determined unnecessary, a qualified individual with a sufficient understanding of the local real estate market shall prepare a waiver valuation.

In such cases, the Real Estate Division and Sponsor may stipulate the amount of credit the Sponsor will receive for these types of low-value tracts. The stipulated amount will be based upon properly documented files setting forth the reasoning behind the value estimate and the estimate of administrative costs. See the attached "Uniform Act" Subpart B – Real Property Acquisition §24.102 Basic Acquisition Policies (pg. 617-618) for further information concerning appraisal waivers.

Off-Setting Benefits: There are occurrences where the project to be constructed will increase the value of the landowner's remaining property. If this remainder value increases, then off-setting benefits may apply. The appropriate procedure for appraising a partial acquisition is to consider the "before and after" valuation technique in which any enhancement of value to the remaining tract created by the project is given consideration in the "after" valuation. Under federal law, such enhancement is termed a "special benefit" and is off-set against the value of the part acquired. In many circumstances, depending on state law, this procedure will result in appraised values of zero for the lands required for project purposes. If in fact the Non-Federal Sponsor chooses to make land payments for the part taken, then this would be considered a non-creditable item and is strictly the responsibility of the NFS. Further guidance regarding this type of appraisal situation is provided for in EC 405-1-04-4-33 and 4-43, dated 30 Dec 2003.

A typical example of off-setting benefits is for shore protection projects. If the appraiser determines that the value of the lands needed for easement purposes is assessed at zero based on the off-setting benefits appraisal method, then the proposed project is deemed to be within the purview of EC 405-1-04, Section V, paragraph 4-44(b). This states that "Hurricane protection and shore protection projects will generally be treated in a manner as to not allow credit for LERRDs when the project provides direct (off-setting) benefits such as prevention of erosion or re-establishment of beaches, i.e., those lands subject to shore erosion that are required for the project."

STEP #6: NEGOTIATIONS

Negotiations: Each property owner is to be provided a written notice of the agencies intent to acquire by the Sponsor's representative. From this point forward, it is mandatory that the negotiator keep a brief narrative record of each contact with each property owner. The negotiator's reports should be kept by tract and included in the tract file. Once a rapport with the property owner(s) has been established and

the amount of just compensation confirmed via the appraisal process, a prompt written Offer Letter must be provided to the property owner(s).

The offer must include a description of the real property, real property interests being acquired, and the fair market value being offered. Along with this offer, the acquiring agency must provide the property owner a Summary Statement of Just Compensation which explains the basis for the offer and provides information necessary for the owner to make a reasonable judgment concerning the amount of the offer. In addition to the offer amount and the property location, the statement should include an identification of buildings, structures, and other improvements to be acquired, including removable building equipment and trade fixtures appraised as part of the real property and those considered to be personal property. The statement should identify any separately held ownership interest in the property, e.g., a tenant-owned improvement and indicate, if appropriate, that such interest is not covered by the offer. **Section 5** herein provides a sample Offer Letter.

A written purchase agreement or contract should be prepared when acceptance of the offer has been made by the landowner. To insure that full credit is received, any offer over the appraised value must be submitted to the Real Estate Division for approval prior to it being accepted by the Sponsor, along with justification for the price. If negotiations are successful, the purchase can be closed, the landowner paid, and the deed recorded. If no purchase price can be agreed upon, the Sponsor must acquire the tract by exercising its power of eminent domain.

Donations: Typically when an agency needs to acquire real property for a Federal or federally assisted project, it will acquire that property through the aforementioned negotiations with the owner or through the exercise of its power of eminent domain (condemnation). However, in some instances, and for various reasons, the owner is willing to give all or a portion of the needed property to the acquiring agency for less than what constitutes just compensation. Such an acquisition is referred to as a donation. In such cases, the Sponsor will be given credit for the value of the donated land, if applicable, as of the date of initial construction.

When a landowner is willing to make a donation, that individual or entity retains specific rights that must be respected. For example, you must provide the owner an explanation of the acquisition process, including the right of having your agency appraise the property and to receive an offer of just compensation. The explanation should be given in a manner that is non-technical and easily understood. See **Section 7** herein for a Sample Letter explaining the acquisition process and just compensation. Only after receiving such an explanation may the property owner waive these rights allowing the agency to accept the donation. Said donation may be accepted by completing the enclosed sample Waiver to Receive Fair Market Value (also attached in **Section 7**).

STEP #7: CONDEMNATION

If the Sponsor and the landowner cannot agree upon a price for a certain tract of land or if there are insurmountable title issues, then a condemnation action must be initiated. The Sponsor has a choice of two avenues for condemnation. First, state condemnation procedures can be used. The typical time frame for hearings and possession depend on the local practice and laws where the property to be condemned is located. This is the preferred method for the Sponsor to use should condemnation be necessary.

As an alternative to using state condemnation procedures, the Sponsor may request that the Secretary of the Army acting through the USACE Real Estate Division, cause condemnation proceedings to be instituted in Federal Court on behalf of the Sponsor. Historically, the Real Estate Division, working in conjunction with the Department of Justice, has been able to obtain possession of the property within 150 to 180 days after condemnation is recommended to higher authority.

In the event that the Sponsor desires for the Real Estate Division to institute condemnation proceedings, they must furnish the funds to pay any awards, including those made pursuant to the Equal Access to Justice Act, plus the legal and administrative costs and expenses of the Corps of Engineers and the Department of Justice.

STEP #8: RELOCATION

Public Law 91-646, as amended, and the PPA require the Sponsor to provide relocation assistance to all people and businesses that are displaced by the project. Title II of the Act requires that certain benefits be paid and assistance be given to all persons and businesses that must be relocated from their homes or places of business because of a federally funded project. These benefits include moving and related expenses, replacement, housing payments for both homeowners and tenant, and relocation advisory services.

On January 2, 1971, Public Law 91-646, the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," (the Uniform Act) was signed into law. The Uniform Act provided important protections and assistance for people affected by federally funded projects. This law was enacted by Congress to ensure that people whose real property is acquired, or who move as a result of projects receiving federal funds, will be treated fairly and equitably and will receive assistance in moving from the property they occupy.

Before the project is started, the Sponsor should verify that housing is available for all persons who may be displaced from their residence as a result of the project. Should any displacements of persons or businesses be required, the Sponsor should contact the Real Estate Division for a detailed review of the procedures and requirements.

Enclosed in **Section 7** herein is a copy of the federal statutes titled "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" (Public Law 91-646) and Title IV, "Uniform Relocation Act Amendments of 1987", (Public Law 100-17). The Sponsor should become familiar with this law prior to initiating any negotiations to acquire the necessary lands for the project.

Additional resources concerning Federal acquisition and relocation laws, procedures, and amendments can be found at the following site: <http://www.fhwa.dot.gov/realestate/index.htm>

STEP #9: MAKING REAL ESTATE AVAILABLE FOR CONSTRUCTION

Before the construction can be awarded, the Sponsor must submit to the Real Estate Division a copy of each of the following documents, if applicable, for their review, approval and permanent records:

Appraisal
Offer Letter
Negotiator's Report
Donation Letter / Waiver to Receive FMV (If Applicable)
Recorded Deed/Easement
Closing Statement
Final Title Policy
Final Judgment in Condemnation (If Applicable)
P.L. 91-646 Information
Attorney's Certificate
Right-of-Entry

The Sponsor should transmit title evidence for each tract to the Real Estate Division. Generally, this evidence will consist of a Title Insurance Policy, or Certificate of Title, or a Title Opinion by the Sponsor's Attorney indicating the scope of the title examination. After closing, a recorded copy of the deed or condemnation judgment acquired by the Sponsor should also be submitted. The title evidence for each tract will be reviewed by a Corps realty specialist or attorney, who must certify to the Chief of Real Estate Division that sufficient real estate has been acquired for the project before the construction contract can be advertised. When the acquisition is complete, the Sponsor's Attorney executes an "Attorney's Certification" to assure the Government that the necessary property interest have been acquired. A sample Attorney's Certification Letter is enclosed in **Section 8**.

After the Sponsor has acquired all the real estate interests necessary for the project and Sponsor attorney certifies, the Sponsor then executes a "Right-of Entry" or "Authorization for Entry for Construction" to the Government, which grants the Corps and its contractors the right to enter onto the property to construct, operate and maintain the project. See **Section 9** herein for an Authorization for Entry for Construction.

STEP #10: CLAIMS FOR CREDIT

The Project Partnership Agreement (PPA) - Article IV – Credit for Value of Lands, Easements, Rights-of-Way, Relocations, and Disposal Area Improvements outlines crediting procedures and should be reviewed carefully. In most instances, the appraisal that is used for acquisition purposes can be updated and used for establishing value for credit on those lands, easements, or rights of way which are owned by the NFS as of the date of the first award of the construction contract. (See Article IV, paragraph a.1. of the PPA.) In all cases, the appraisers used to establish credit must be approved by the Government before the appraisal process can begin. Furthermore, the Government must approve the appraisal that is used for negotiations and for the basis of credit.

The final step is the submittal of claims for credit against the Sponsor's share of project costs. All claims associated with the acquisition of real estate should be submitted to the Real Estate Division on a monthly basis throughout the different real estate phases of the project. This monthly submittal allows for more efficient coordination and effective review times. Claims for any approved engineering, planning or construction work, and for the planning and construction of utility relocations should be submitted to the Project Manager.

All credit claims for real estate expenditures must be in written form and itemized with supporting documentation. All claims should be submitted as soon as possible so that the Sponsor may have the maximum amount of approved credit available when it is required to make cash contributions under the formula as set forth in the PPA.

Real estate related expenditures should be attributed to individual tracts. See **Sections 10 and 11** for credit claim format (by tract) in connection with acquisition expenses and relocation expenses, respectively. More detailed information concerning itemized claims for credit is as follows:

- 1. Land Costs:** Individual tract credit will be based on:
 - a. Appraised value of property; or,
 - b. Negotiated value of property if properly approved by the Corps prior to finalizing an agreement with the property owner; or,
 - c. Value of court award or stipulated settlements that have received prior Corps approval
- 2. Closing Expenses:** Value of incidental closing expenses such as recording fees, state sales or transfer tax, and city/county/state tax stamps if applicable.
- 3. Administrative Costs:** The Sponsor is also entitled to credit for its reasonable administrative costs incurred to acquire the lands, easements, rights-of-way, and disposal areas (LERRD) required for project purposes. For the sponsor to receive credit for the land acquisition costs, these must be reasonable, allocable and allowable in accordance with OMB Circular A-87.

Administrative costs generally include the following:

- a. Surveys, mapping, and legal descriptions
- b. Title evidence (i.e. commitments/policies)
- c. Appraisal services
- d. Negotiations w/ landowners
- e. Relocation assistance (if applicable)
- f. Closings, preparation of conveyance documents
- g. Condemnation proceedings (if applicable)

These costs will only be credited when properly documented with the following:

- a. Receipts
- b. Cancelled checks or vouchers
- c. Time record information for each person who claims time for project related work
- d. Other pertinent supporting documentation as it relates to the project

*NOTE: These specific claims for credit should be itemized and regularly tracked on a spreadsheet similar to the Credit Tracking Sheet enclosed in **Section 12** of this guide. This provides a comprehensive view of the overall tracts acquired for the project.*

When this administrative work is obtained by contract, the Sponsor must furnish a copy of the contract for services together with any back up information concerning number and amounts of bids

received. In-house administrative and legal costs must be thoroughly documented as to who's time is being charged, the position and salary of the individual, and the specific number of hours spent in the land acquisition process.

Administrative costs should be provided to your Real Estate Point of Contact monthly with the Non-Federal Sponsor's final application for credit for costs associated with acquisition of LERRD being submitted with supporting documents within 60 days after the authorization of entry for construction is made available to the Government. The Sponsor should take care to keep back-up records to support all claims for credits in accordance with Article X of the PPA. Initial determination, as to reasonableness of applications for credit, to allow the start of project construction will be made by the Project Manager in conjunction with the Real Estate Division. The final accounting for all claims for credit will be made during the project audits.

STEP #11: RECORDS

As previously discussed in Steps 1-10 of this guide, the Sponsor must develop an individual acquisition file for each tract, or group of tracts under a single ownership, and all documents and correspondence should reference a tract number. The files should contain the records evidencing compliance with Public Law 91-646, as amended, if applicable. Records should include at least the following: required notices and correspondence with landowner(s), negotiator's report, appraisals and reviews, conveyance documents, closing documents, determination of comparable replacement housing, and records of contracts with displaced persons. Accurate financial reports are required by the PPA, and must be kept for verification of claims by audit.

STEP #12: ANNUAL REPORTING REQUIREMENTS

Data pertaining to actual land and relocation assistance payments made by the Sponsor at a Federally-assisted project must be provided on ENG Form 4660-R as shown in **Section 13 herein**. This report should cover the fiscal period beginning October 1 and ending September 30 of the reporting year. The Sponsor should complete and submit the report by October 15 each year to the U.S. Army Corps of Engineers, Real Estate Division, P.O. Box 2288, Mobile, AL 36628.

SECTION 1: POST PPA TO-DO LIST & REAL ESTATE MILESTONES

POST - PROJECT PARTNERSHIP AGREEMENT (PPA) TO-DO LIST

- **PPA SIGNED**
- **HOLD MEETING TO DISCUSS EACH ITEM IN THE PROJECT PARTNERSHIP AGREEMENT CONCERNING REAL ESTATE AND /OR THE REAL ESTATE PLAN.**
- **POST PPA MILESTONES - MEET WITH SPONSOR AND ESTABLISH REALISTIC DATES FOR ACCOMPLISHMENT OF ACQUISITION OF REAL ESTATE REQUIRED**
- **PROJECT MANAGER FURNISHES SPONSOR WITH FINAL PLANS AND SPECIFICATIONS OR RIGHT-OF-WAY DRAWINGS.**
 - THESE DRAWINGS WILL IDENTIFY ALL REAL ESTATE INTERESTS TO BE ACQUIRED (ROADS, EASEMENTS, BORROW, DISPOSAL AREAS, ETC.) AND THEIR LOCATION.
- **USACE-SAM-RE TO PROVIDE SPONSOR WITH ESTATE(S) TO BE USED FOR PROJECT AS PREVIOUSLY DISCUSSED IN THE REAL ESTATE PLAN (REP) OR SIMILAR PLANNING DOCUMENT**
- **SPONSOR CONTRACTS FOR APPRAISAL SERVICES**
 - APPRAISER MUST BE A QUALIFIED, INDEPENDENT APPRAISER
 - APPRAISER SELECTED BY SPONSOR MUST BE APPROVED BY CORPS OF ENGINEERS REAL ESTATE DIVISION, PROGRAM MGMT. & CONTROL BRANCH (USACE-SAM-RE-P)
- **SPONSOR OBTAINS PROPERTY LINE SURVEY OF PROJECT LIMITS**
 - SPONSOR EITHER IN-HOUSE OR CONTRACTS FOR SURVEYOR
 - SPONSOR SHOULD HAVE RIGHTS-OF-ENTRY SIGNED BY PROPERTY OWNERS PRIOR TO SURVEYOR ENTERING OWNERS' PROPERTY UNLESS OTHERWISE OBTAINED UNDER THE SURVEY CONTRACT
 - SURVEYOR SELECTED BY SPONSOR SHOULD COORDINATE WITH CORPS OF ENGINEERS REAL ESTATE DIVISION, CADASTRAL SECTION, PROGRAM MGMT. & CONTROL BRANCH PRIOR TO PERFORMING ANY WORK
 - SHOW PROPERTY LINES/MEAN HIGH WATER LINE/ CONSTRUCTION LINES/WALKWAYS/PIERS/PUBLIC ACCESS/ETC...WHERE APPLICABLE
 - DESIGNATE ACREAGE TO THE NEAREST ONE HUNDREDTH (0.04 ACRE), THOUSANDTH IF NECESSARY -- NOT SQUARE FOOTAGE
 - SPONSOR MUST PROVIDE LEGAL DESCRIPTIONS (METES AND BOUNDS) OF EACH TRACT (INDIVIDUAL PARCEL) AS WELL AS EACH ESTATE NEEDED FOR PROJECT PURPOSES (**THIS IS THE BASIC UNIT USED IN CREDITING**)

- SEVERAL TRACTS MAY BE SHOWN ON EACH MAP OF A SEGMENT SHEET FOR THE PROJECT IN ORDER TO MINIMIZE NUMBER OF TOTAL SEGMENT SHEETS
- SURVEY DATA WILL BE REVIEWED BY SPONSOR, PROJECT MANAGER, AND REAL ESTATE DIVISION. THIS REVIEW AND COMPARISON WITH THE RIGHT-OF-WAY DRAWINGS SHOULD BE PERFORMED PRIOR TO THE INITIATION OF APPRAISALS OR TITLE EVIDENCE
- **SPONSOR FURNISH SURVEY TO APPRAISER**
 - SEVERAL TRACTS UNDER ONE OWNER MAY BE GROUPED INTO ONE APPRAISAL IF MORE CONVENIENT AND IS COORDINATED THROUGH REAL ESTATE DIVISION
 - EACH APPRAISAL MUST BE SUBMITTED TO REAL ESTATE DIVISION'S REVIEW APPRAISER PRIOR TO ANY NEGOTIATIONS
- **TITLE EVIDENCE**
 - AFTER SURVEY, SPONSOR SHOULD INITIATE TITLE SEARCH PROCESS FOR PROOF OF OWNERSHIP
 - SPONSOR SHOULD SUBMIT TITLE EVIDENCE TO REAL ESTATE DIVISION FOR REVIEW TO DETERMINE IF ANY ADDITIONAL INTEREST WILL BE REQUIRED DUE TO SOME OUTSTANDING TITLE ISSUE WHICH COULD AFFECT THE PROJECT
- **LETTER FROM SPONSOR TO LANDOWNER STATING INTENT OF SPONSOR TO ACQUIRE REAL PROPERTY**
- **LETTER FROM SPONSOR TO LANDOWNER ENCLOSING WAIVER OF RIGHT TO FAIR MARKET VALUE**
 - THIS IS REQUIRED IF LANDOWNER DONATES LAND AND/OR THERE IS NO VALUE DUE TO OFFSETTING BENEFITS
- **SPONSOR SHOULD BE FAMILIAR WITH THE "UNIFORM ACT" PRIOR TO INITIATING NEGOTIATIONS TO ACQUIRE LANDS.**
 - "UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970" REFERRED TO AS PUBLIC LAW 91-646 AND TITLE IV, "UNIFORM RELOCATIONS ACT AMENDMENTS OF 1987" OR PUBLIC LAW 100-17.
- **SPONSOR IS RESPONSIBLE FOR ALL CLOSING COSTS**
- **ANY OFFER ABOVE APPRAISED VALUE MUST BE APPROVED BY REAL ESTATE DIVISION PRIOR TO OFFER BEING MADE TO LANDOWNER**
- **CONDEMNATION: SPONSOR HAS TWO AVENUES TO PROCEED WITH CONDEMNATION**
 - USE STATE CONDEMNATION PROCEDURES

- SPONSOR MAY REQUEST THE SECRETARY OF THE ARMY, THROUGH THE CORPS OF ENGINEERS, TO INSTITUTE CONDEMNATION PROCEDURES IN FEDERAL COURT -- AWARDS AND CORPS' ADMINISTRATIVE COSTS MUST BE FUNDED BY PROJECT SPONSOR
- **PROJECT SPONSOR OBTAINS SIGNED DEED OF EASEMENT OR OTHER NECESSARY ESTATE WITH LEGAL DESCRIPTION.**
 - ALONG WITH LANDOWNER NAME, DEED SHOULD ALSO SHOW TRACT NUMBER AND TAX PARCEL NUMBER AS PART OF IDENTIFICATION
- **REAL ESTATE DIVISION SUBMITS TRACKING SHEET TO PROJECT SPONSOR FOR TRACKING/MONITORING ACQUISITION**
 - THIS CONTAINS A DOCKET SHEET FOR EACH TRACT NECESSARY FOR PROJECT PURPOSES AND PERTINENT INFORMATION PERTAINING TO EACH TRACT
- **SPONSOR SUBMITS, FOR EACH TRACT, FOR REVIEW BY REAL ESTATE DIVISION, THE FOLLOWING:**
 - APPRAISAL
 - OFFER LETTER
 - NEGOTIATOR'S REPORT
 - DONATION LETTER (IF APPLICABLE)
 - RECORDED DEED
 - CLOSING STATEMENT (I.E. SETTLEMENT STATEMENT)
 - CERTIFICATION OF TITLE OR TITLE OPINION OR FINAL TITLE POLICY
 - CONDEMNATION – FINAL JUDGMENT (IF APPLICABLE)
 - RELOCATION P.L. 91-646 DATA (IF APPLICABLE)
 - ATTORNEY'S CERTIFICATE CERTIFYING ACQUIRED REAL ESTATE ON SPONSOR LETTERHEAD
- **REAL ESTATE DIVISION REVIEWS THE ABOVE DATA AND NOTIFIES SPONSOR OF ITS APPROVAL**
- **REAL ESTATE DIVISION LOADS DATA INTO DATABASE PROGRAM TO MONITOR ACQUISITION**
- **WHEN ACQUISITION IS COMPLETE, SPONSOR'S ATTORNEY EXECUTES AN "ATTORNEY'S CERTIFICATE" TO ASSURE THE GOVERNMENT THAT ALL REAL ESTATE FOR PROJECT PURPOSES HAS BEEN ACQUIRED**
- **SPONSOR FURNISHES REAL ESTATE DIVISION A "RIGHT-OF-ENTRY"**
 - THIS GRANTS THE GOVERNMENT AND ITS CONTRACTORS THE RIGHT TO ENTER ONTO THE PROPERTY TO CONSTRUCT, OPERATE AND MAINTAIN THE PROJECT

- **CLAIMS FOR CREDIT**
 - CLAIMS ASSOCIATED WITH THE ACQUISITION OF REAL ESTATE SHOULD BE SUBMITTED TO REAL ESTATE DIVISION ON A MONTHLY BASIS THROUGHOUT THE REAL ESTATE PROCESS
 - CLAIMS MUST BE IN WRITTEN FORM, ITEMIZED WITH SUPPORTING DOCUMENTATION (INVOICES, RECEIPTS, CANCELLED CHECKS OR VOUCHERS, AND OTHER PERTINENT DOCUMENTS TO THE OFFICIAL CLAIM). OFFICIAL INDIVIDUAL TIME RECORDS AND SALARY PLUS BENEFIT INFORMATION SHOULD BE SUBMITTED FOR EACH PERSON WHO CLAIMS TIME FOR PROJECT RELATED WORK.
 - REAL ESTATE CLAIMS SHOULD BE ATTRIBUTED TO INDIVIDUAL TRACTS
 - CLAIMS FOR CREDIT PERTAINING TO P.L. 91-646 SHOULD BE ATTRIBUTED TO INDIVIDUAL TRACTS AND A CLAIM SUBMITTED ACCORDINGLY

- **RECORDATION: SPONSOR SHOULD DEVELOP A FILE FOR EACH TRACT OR GROUP OF TRACTS UNDER ONE OWNERSHIP -- EACH FILE SHOULD CONTAIN:**
 - LANDOWNER CORRESPONDENCE
 - REQUIRED NOTICES TO LANDOWNER
 - SURVEY / MAP
 - NEGOTIATOR'S REPORTS
 - APPRAISALS AND REVIEW
 - TITLE EVIDENCE
 - COMPLIANCE WITH P.L. 91-646
 - DETERMINATION OF COMPARABLE HOUSING
 - RECORDS OF CONTRACTS WITH DISPLACED PERSONS
 - SPONSOR'S ADMINISTRATIVE TIME PER TRACT, IF POSSIBLE

- **ANNUAL REPORTING REQUIREMENTS**
 - REPORT SUBMITTED TO REAL ESTATE DIVISION COVERING THE FISCAL PERIOD BEGINNING 1 OCTOBER AND ENDING 30 SEPTEMBER SHOULD BE ACCOMPLISHED ON ENG FORM 4660-R

Real Estate Milestones

PROJECT:

DATE		REQUIREMENT	RESPONSIBILITY
Projected	Actual		
		Completion of Feasibility Report	Sponsor & CESAM
		Plans & Specs Provided to Sponsor	CESAM-PM
		Sponsor is Notified of Risks for RE prior to PPA	CESAM-RE
		PPA Executed	CESAM & Sponsor
		Final ROW Drawings to Sponsor	CESAM-PM
		Estates Provided to Sponsor	CESAM-RE
		Survey Initiated	Sponsor
		Survey Complete	Sponsor
		Maps Submitted SAM-RE for Review	Sponsor
		Maps Reviewed and Approved	CESAM-RE

	Title Evidence Initiated	Sponsor
	Title Evidence Complete	Sponsor
	Donation/Waiver of Appraisal Requested	Sponsor
	Donation/Waiver Received and Approved	Sponsor
	Appraiser Resume' Submitted for Approval	Sponsor
	Appraiser Approved	CESAM-RE
	Appraisals Initiated	Sponsor
	Appraisals Approved	CESAM-RE
	Initiate Negotiations for Acquisition	Sponsor
	Complete Acquisitions	Sponsor
	Submit LERRDs for Review	Sponsor
	Initiate Condemnations if Required	Sponsor
	Review Condemnations	CESAM-RE

	Complete Condemnations (Obtain Possession)	Sponsor
	Complete PL 91-646 Assistance	Sponsor
	Review PL 91-646 Payments	Sponsor
	Review & Certify Real Estate	CESAM-RE
	Advertise for Construction	CESAM-PM
	Submit Credit Request	Sponsor
	Review Credit Request	CESAM-RE
	Approve Crediting	CESAM-RE
	Award Construction Contract	CESAM-PM

SECTION 2: STANDARD OR RECOMMENDED ESTATES

Exhibit 5-29

STANDARD ESTATES

For cost shared projects, where the estate uses the term "operation and maintenance", use the term "operation, maintenance, repair, replacement and rehabilitation".

In any estate enumerate the tract numbers only where two or more different estates are acquired in the same deed, complaint or declaration of taking. This applies to all approved estates listed in this Exhibit. The estate recited in an exhibit of a complaint and in paragraph 3 of the declaration of taking will be double spaced. Estates in deeds are single spaced and indented or attached as an Exhibit and incorporated by reference.

1. FEE.

The fee simple title to (the land described in Schedule A) (Tracts Nos. , and), Subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines. ¹

2. FEE EXCEPTING AND SUBORDINATING SUBSURFACE MINERALS.

The fee simple title to (the land described in Schedule A) (Tracts Nos. , and), subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines; excepting and excluding from the taking all (coal) (oil and gas) in and under said land and all appurtenant rights used in connection with the exploration, development, production and removal of said (coal) (oil and gas), including any existing structures and improvements; provided, however, that the said (coal) (oil and gas) and appurtenant rights so excepted and excluded are hereby subordinated to the prior right of the United States to flood and submerge the land as may be necessary in the construction, operation and maintenance of the project; provided further that any exploration or development of said (coal) (oil and gas) in and under said land shall be subject to Federal and State laws with respect to pollution of waters of the reservoir, and provided that the type and location of any structure, improvement and appurtenance thereto now existing or to be erected or constructed on said land in connection with the exploration and/or development of said (coal) (oil and gas) shall be subject to the prior written approval of the District Commander, U.S. Army Engineer District, , or his duly authorized representative. ²

3. FEE EXCLUDING MINERALS (With Restriction on Use of the Surface).

¹ Where an outstanding interest in the subsurface mineral estate is part of a block ownership which is to be excluded from the taking in accordance with paragraph 5-289 (2), the following clause will be added: "excepting and excluding from the taking all interests in the (coal) (oil and gas) which are outstanding in parties other than the surface owners and all appurtenant rights for the exploration, development and removal of said (coal) (oil and gas) so excluded."

² See footnote 1

The fee simple title to the land, subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines; excepting and excluding all (coal) (oil and gas), in and under said land and all appurtenant rights for the exploration, development, production and removal of said (coal) (oil and gas), but without the right to enter upon or over the surface of said land for the for the purpose of exploration, development, production and removal therefrom of said (coal) (oil and gas).

4. FEE EXCLUDING MINERALS (With Restriction on Use of the Surface and Subordination to the Right to Flood).

The fee simple title to (the land described in Schedule A) (Tracts Nos. ____, ____, and ____), subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines; excepting and excluding from the taking all (coal) (oil and gas) in and under said land and all appurtenant rights for the exploration, development, production and removal of said (coal) (oil and gas), but without the right to enter upon or over the surface of said land for the purpose of exploration, development, production and removal therefrom said (coal) (oil and gas); provided, however, that the said (coal) (oil and gas) and appurtenant rights so excepted and excluded are subordinated to the prior right of the United States to flood and submerge the land in connection with the operation and maintenance of the _____ project.

5. FLOWAGE EASEMENT (Permanent Flooding).

The perpetual right, power, privilege and easement permanently to overflow, flood and submerge (the land described in Schedule A) Tracts Nos. _____, _____ and _____), (and to maintain mosquito control) in connection with the operation maintenance of the project as authorized by the Act of Congress approved _____, and the continuing right to clear and remove and brush, debris and natural obstructions which, in the opinion of the representative of the United States in charge of the project, may be detrimental to the project, together with all right, title and interest in and to the timber, structures and improvements situate on the land ³ (excepting _____, (here identify those structures not designed for human habitation which the District Engineer determines may remain on the land)); provided that no structures for human habitation shall be constructed or maintained on the land, that no other structures shall be constructed or maintained on the land except as may be approved in writing by the representative of the United States in charge of the project, and that no excavation shall be conducted and no landfill placed on the land without such approval as to the location and method of excavation and/or placement of. landfill; ⁴ the above estate is taken subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used and enjoyed without interfering with the use of the project for the purposes authorized by Congress or abridging the rights and easement hereby acquired; provided further that any use of the land shall be subject to Federal and State laws with respect to pollution.

6. FLOWAGE EASEMENT (Occasional Flooding).

³ Any structures existing in areas that will be allowed to remain must be evaluated using the same criteria that would be used to grant permission for a new structure to be placed in the easement, in coordination with the operational office..

⁴ If sand and gravel or other quarriable material is in the easement area and the excavation thereof will not interfere with the operation of the project, the following clause will be added: "excepting that excavation for the purpose of quarrying (sand) (gravel) (etc.) shall be permitted, subject only to such approval as to the placement of overburden, if any, in connection with such excavation;"

The perpetual right, power, privilege and easement occasionally to overflow, flood and submerge (the land described in Schedule A) (Tracts Nos. ____, ____ and ____). (and to maintain mosquito control) in connection with the operation and maintenance of the project as authorized by the Act of Congress approved _____, together with all right, title and interest in and to the structure; and improvements now situate on the land, except fencing ⁵(and also excepting _____ (here identify those structures not designed for human habitation which the District Engineer determines may remain on the land)) ⁶; provided that no structures for human habitation shall be constructed or maintained on the land, that no other structures shall be constructed or maintained on the land except as may be approved in writing by the representative of the United States in charge of the project, and that no excavation shall be conducted and no landfill placed on the land without such approval as to the location and method of excavation and/or placement of landfill; ⁷ the above estate is taken subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used and enjoyed without interfering with the use of the project for the purposes authorized by Congress or abridging the rights and easement hereby acquired; provided further that any use of the land shall be subject to Federal and State laws with respect to pollution.

7. FLOWAGE EASEMENT (Portions of Land to be Subjected to Permanent Inundation and Portions to be Subjected to Occasional Flooding).

The perpetual right, power, privilege and easement in, upon, over and across (the land described in Schedule "A") (Tracts Nos. ____, ____ and ____ for the purposes set forth below:

a. Permanently to overflow, flood and submerge the land lying below elevation _____ (and to maintain mosquito control,) in connection with the operation and maintenance of the project for the purposes as authorized by the Act of Congress approved _____, together with all right, title and interest in and to the timber and the continuing right to clear and remove any brush, debris and natural obstructions which, in the opinion of the representative of the United States in charge of the project may be detrimental to the project.

b. Occasionally to overflow, flood and submerge the land lying above elevation _____ (and to maintain mosquito control,) in connection with the operation and maintenance of said project.

Together with all right, title and interest in and to the structures and improvements now situate on the land, except fencing above elevation _____ (and also excepting _____, (here identify those structures not designed for human habitation which the District Engineer determines may remain on the land)) ⁸ provided that no structures for human habitation shall be constructed or maintained on the land⁹, that no other structures shall be constructed or maintained on the land except as may be approved in writing by the representative of the United States in charge of the project, and that no excavation shall be conducted and no landfill placed on the land without such approval as to the location and method of excavation and/or placement of landfill; ¹⁰ the above estate is taken subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used and enjoyed without interfering with the use of the project for the purposes authorized by

⁵ See footnote 3.

⁶ Where substantial residential structures exist in areas subject to very infrequent flooding, and will not interfere with project operations, the following clause may be substituted; however, leaving these structures in place must be evaluated using the same criteria that would be used to grant permission for a new residential structure to be placed in the easement. See EC 405-1-80: "(and also excepting the structure(s) now existing on the land, described as _____, which may be maintained on the land provided that portion of the structure(s) located below elevation _____ feet, mean sea level, shall be utilized for human habitation to the extent that sleeping accommodations will be maintained therein)". The next clause would then be modified to read "provided that no other structures for"

⁷ See footnote 4

⁸ see footnote 3

⁹ see footnote 6

¹⁰ see footnote 4

Congress or abridging the rights and easement hereby acquired; provided further that any use of the land shall be subject to Federal and State laws with respect to pollution.

8. CHANNEL IMPROVEMENT EASEMENT.

A perpetual and assignable right and easement to construct, operate, and maintain channel improvement works on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____) for the purposes as authorized by the Act of Congress approved _____, including the right to clear, cut, fell, remove and dispose of any and all timber, trees, underbrush, buildings, improvements and/or other obstructions therefrom; to excavate: dredge, cut away, and remove any or all of said land and to place thereon dredge or spoil material; and for such other purposes as may be required in connection with said work of improvement; reserving, however, to the owners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

9. FLOOD PROTECTION LEVEE EASEMENT.

A perpetual and assignable right and easement in (the land described in Schedule A) (Tracts Nos, _____, _____ and _____) to construct, maintain, repair, operate, patrol and replace a flood protection (levee) (floodwall)(gate closure) (sandbag closure), including all appurtenances thereto; reserving, however, to the owners, their heirs and assigns, all such rights and privileges in the land as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

10. DRAINAGE DITCH EASEMENT.

A perpetual and assignable easement and right-of-way in, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____) to construct, maintain, repair, operate, patrol and replace a drainage ditch, reserving, however, to the owners, their heirs and assigns, all such rights and privileges in the land as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

11. ROAD EASEMENT.

A (perpetual [exclusive] [non-exclusive]and assignable) (temporary) easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____) for the location, construction, operation, maintenance, alteration replacement of (a) road(s) and appurtenances thereto; together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; (reserving, however, to the owners, their heirs and assigns, the right to cross over or under the right-of-way as access to their

adjoining land at the locations indicated in Schedule B); ¹¹ subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

12. RAILROAD EASEMENT.

A perpetual and assignable easement and right-of-way in, on, over _____ and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____) for the location, construction, operation, maintenance alteration and replacement of a railroad and appurtenances thereto; together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and other vegetation, structures, or obstacles within the limits of the right-of-way; (reserving, however, to the landowners, their heirs and assigns, the right to cross over or under the right-of-way as access to their adjoining land at the locations indicated in Schedule B);¹² subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

13. UTILITY AND/OR PIPELINE EASEMENT.

A perpetual and assignable easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), for the location, construction, operation, maintenance, alteration; repair and patrol of (overhead) (underground) (specifically name type of utility or pipeline); together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

14. BORROW EASEMENT.

A perpetual and assignable right and easement to clear, borrow, excavate and remove soil, dirt, and other materials from (the land described in Schedule A) (Tracts Nos. _____, _____ and _____); ¹³ subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges in said land as may be used without interfering with or abridging the rights and easement hereby acquired.

¹¹ The parenthetical clause maybe deleted, where necessary; however, the use of this reservation may substantially reduce the liability of the Government through reduction of severance damages and consideration of special benefits; therefore, its deletion should be fully justified. Also, access may be restricted to designated points as in Estate No. 12.

¹² The use of this reservation clause may substantially reduce the liability of the Government through reduction of severance damages.

¹³ The easement estate may be limited as to time, depending upon project requirements.

15. TEMPORARY WORK AREA EASEMENT.

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), for a period not to exceed _____, beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the _____ Project, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

16. TEMPORARY EASEMENT FOR EXPLORATION.

A temporary easement in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), for a period not to exceed _____, beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors, to survey, appraise, conduct test borings, and conduct other exploratory work necessary to the design of a public works project; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however to existing easements for public roads and highways, public utilities, railroads and pipelines.

17. LEASEHOLD ESTATE.

A term for years ending March 31, 20____, extendible for yearly periods thereafter, at the election of the United States, until March 31, 20____, notice of which election shall be filed in the proceeding at least thirty (30) days prior to the end of the term hereby taken, or subsequent extensions thereof, together with the right to remove, within a reasonable time after the expiration of the term taken, or any extension thereof, any and all improvements and structures heretofore or hereafter placed thereon by or for the United States; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

18. EXTINGUISHMENT OF RIGHTS IN CEMETERY OR EXTINGUISHMENT OF MINERAL RIGHTS.

All outstanding right, title and interest in (the land described in Schedule A) (Tracts Nos. _____, _____ and _____, subject to existing easements for public roads and highways, public utilities, railroads and pipelines.

19. RESTRICTIVE EASEMENT.

A perpetual and assignable easement for the establishment, maintenance, operation and use for a (restricted) (safety) area in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), consisting of the right to

prohibit human habitation; the right to remove buildings presently or hereafter being used for human habitation; the right to prohibit gatherings of more than twenty-five (25) persons; the right to post signs indicating the nature and extent of the Government's control; and the right of ingress and egress over and across said land for the purpose of exercising the rights set forth herein; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired.

20. RIGHT OF ENTRY FOR SURVEY AND EXPLORATION.

An assignable easement, in, on, over and across the land described in Exhibit "A" for a period of () months beginning with the date possession of the land is granted to the United States, consisting of the right of the United States, its representative, agents, contractors and assigns to enter upon said land to survey, stake out, appraise, make borings; and conduct tests and other exploratory work necessary to the design of a public works project; together with the right to trim, cut, fell, and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles as required in connection with said work; subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowner(s), their heirs, executors, administrators, successors and assigns, all such right, title, interest and privilege as may be used and enjoyed without interfering with or abridging the rights and easement hereby acquired.

21. BANK PROTECTION EASEMENT.

A perpetual and assignable easement and right-of-way in, on, over and across the land hereinafter described for the location, construction, operation, maintenance, alteration, repair, rehabilitation and replacement of a bank protection works, and for the placement of stone, riprap and other materials for the protection of the bank against erosion; together with the continuing right to trim, cut, fell, remove and dispose therefrom all trees, underbrush, obstructions, and other vegetation; and to remove and dispose of structures or obstructions within the limits of the right-of-way; and to place thereon dredged, excavated or other fill material, to shape and grade said land to desired slopes and contour, and to prevent erosion by structural and vegetative methods and to do any other work necessary and incident to the project; together with the right of ingress and egress for such work; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however to existing easements for public roads and highways, public utilities, railroads and pipelines.

22. TEMPORARY WELL AND PIPELINE EASEMENT.

A temporary and assignable easement in, on, over and across (the land described in Schedule "A") (Tract Nos. , , and) for a period not to exceed beginning (date)(with the date possession is granted to the United States in this proceeding {or date of deed}), and terminating with the earlier of the completion

of the remediation or the filing in the local land records by the representative of the United States in charge of the Project of a notice of termination,) to locate, construct, operate, maintain, repair, replace, and/or remove (a) (monitoring) (injection)

(extraction) well(s), pipeline(s) and appurtenances thereto; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

23. TEMPORARY OR PERPETUAL WELL EASEMENT.

A (perpetual and assignable)(temporary) easement and right-of-way in, on, over and across (the land described in Schedule A)(Tracts Nos. ____, ____ and ____) (for a period not of ____ years beginning with [_(date)_])(the date this instrument is accepted by the United States)(the date possession of the land is granted to the United States)for use by the United States, its representatives, agents and contractors for the construction, operation, maintenance, alteration, repair, monitoring and removal of (monitoring)(injection)(extraction)wells, pipelines and appurtenant facilities and to perform any other work necessary in connection with the _____ Project, together with the continuing right to trim, cut, fell and remove therefrom all trees, underbrush, other vegetation, structures or obstructions within the limits of the rights-of-way, reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

24. ROCK ANCHOR EASEMENT.

A perpetual and assignable right and easement to construct, operate and maintain underground anchors or tie-backs under and through Tract Nos. ____, ____ and ____, where needed, as part of the _____ Project, with such anchors or tie-backs installed from (name of stream or river) located at a minimum, ____ feet below ground level; limited, however, to such rights and easement hereby acquired as may be used without disturbing the surface of the land and without interfering with or abridging the surface owner's right to use the surface of the land except to the extent the surface owner's use does not include removal, excavating or constructing around the anchor or tie-back; subject however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

25. SNAGGING AND CLEARING EASEMENT.

A perpetual and assignable right and easement on, over and across (the land described in Schedule A)(Tract(s) No(s). ____, ____ and ____.) for the purposes of occasionally conducting snagging and clearing operations along the banks of the _____, including the right to trim, cut, fell, remove and dispose of any and all trees, brush, obstacles or other vegetation, except trees having a diameter exceeding 8 inches measured at _____ height; reserving, however, to the landowners, their heirs and assigns all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

26. PERPETUAL BEACH STORM DAMAGE REDUCTION EASEMENT.

A perpetual and assignable easement and right-of-way in, on, over and across (the land described in Schedule A) (Tract No. ___) for use by the (Project Sponsor), its representatives, agents, contractors, and assigns, to construct; preserve; patrol; operate; maintain; repair; rehabilitate; and replace; a public beach [a dune system] and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to deposit sand; to accomplish any alterations of contours on said land; to construct berms [and dunes]; to nourish and renourish periodically; to move, store and remove equipment and supplies; to erect and remove temporary structures; and to perform any other work necessary and incident to the construction, periodic renourishment and maintenance of the (Project Name), together with the right of public use and access; [to plant vegetation on said dunes and berms; to erect, maintain and remove silt screens and sand fences; to facilitate preservation of dunes and vegetation through the limitation of access to dune areas;] to trim, cut, fell, and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures and obstacles within the limits of the easement (except_____); [reserving, however, to the grantor(s), (his) (her) (its) (their) (heirs), successors and assigns, the right to construct dune overwalk structures in accordance with any applicable Federal, State or local laws or regulations, provided that such structures shall not violate the integrity of the dune in shape, dimension or function, and that prior approval of the plans and specifications for such structures is obtained from the (designated representative of the Project Sponsor) and provided further that such structures are subordinate to the construction, operation, maintenance, repair, rehabilitation and replacement of the project; and further] reserving to the grantor(s), (his) (her) (its) (their) (heirs), successors and assigns all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired; subject however to existing easements for public roads and highways, public utilities, railroads and pipelines.

SECTION 3: RIGHT-OF-ENTRY FOR SURVEY & EXPLORATION

DEPARTMENT OF THE ARMY

RIGHT-OF-ENTRY FOR SURVEY AND EXPLORATION

Project

Tract Number

The undersigned hereinafter called the "Owner" hereby grants to the _____ hereinafter called the "Government", a permit or right-of-entry upon the following terms and conditions:

1. The Owner hereby grants to the "Government", an irrevocable right to enter upon the lands hereinafter described at any time with a period of _____ months from the date of this instrument, in order to survey, make test borings, and carry out such other exploratory work as may be necessary to complete the investigation being made of said lands by the Government.
2. This permit includes the right of ingress and egress on other lands of the Owner not described below provided such ingress and egress is necessary and not otherwise conveniently available to the Government.
3. All tools, equipment, and other property taken upon or placed upon the land by the Government shall remain the property of the Government and may be removed by the Government at any time within a reasonable period after the expiration of this permit or right-of-entry.
4. If any action of the Government's employees or agents in the exercise of this right-of-entry result in damage to the real property, the Government will, at its option, either repair such damage or make an appropriate settlement with the owner. In no event shall such repair or settlement exceed the fair market value of the fee interest of the real property at the time immediately preceding such damage. The Government's liability under this clause may not exceed appropriations available for such payment and nothing contained in this agreement may be considered as implying that Congress will at a later date appropriate funds sufficient to meet deficiencies. The provisions of this clause are without prejudice to any rights the Owner may have to make a claim under applicable laws for any other damages than provided herein.
5. The land affected by this permit or right-of-entry is located in the State of _____, County of _____, and is described as follows: (See Attached Exhibit)

WITNESS MY HAND AND SEAL this ___ day of _____ 20__.

_____ (Seal)

_____ (Seal)

GOVERNMENT ENTITY

BY: _____ Title

SECTION 4: SEGMENT MAP

SECTION 5: OFFER TO SELL (SAMPLE)

(Sample Offer Letter to Sell Real Property)

Dear _____:

It is necessary for the _____ to acquire from you the following real property for use in connection with the _____: _____ acre(s) of (improved) (unimproved) land identified in _____ records as Tract No(s). _____. This land is part of a _____ acre tract located in _____. A legal description and map of the property are enclosed.

In compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, we are advising you that the amount that has been established as just compensation for the _____ acre(s) to be acquired from you is \$_____ (including \$_____ severance damage to your remaining ownership.) This amount is based upon and is not less than our approved appraisal of the fair market value of the land. Fair market value has been judicially defined as the price the property would bring in a sale between a willing seller and a willing buyer, neither being obligated to act. Our appraisal was made by a qualified real estate appraiser using standard, nationally accepted valuation techniques recognized by authorities in the appraisal field and taking into consideration the value of the land, its location, and its highest and best use, as well as any improvements on the land. Any increase or decrease in the fair market value caused the _____ project has been disregarded. Furthermore, the amount does not reflect any consideration of or allowance for any relocation assistance and payments under Public Law 91-646 to which you may be entitled.

The appraiser found the property to be acquired is (used as) (composed of)

_____. The highest and best use of the land was considered to be (its present use) _____.
The improvements to be acquired are _____.

The basic approaches to value considered by appraisers may be classified under three headings: market data, income and cost. In the appraisal covering your property, primary reliance was placed on the _____ approach. In making the appraisal, (no. of) sales of property similar to your _____, which were sold within the _____, were used for comparison. These sales were adjusted on the basis of such factors as (location), (condition), (terms of sale), (lapse of time), and (topography) _____. The _____ (and _____) approach (es) were (was) then used to check the value indicated by the _____ approach. After completion, the appraisal was reviewed by a qualified appraiser with many years of experience in evaluating real estate, who approved it as a well documented conclusion of the market value of your property and a sound basis for the amount believed to be just compensation for the required _____ acre(s).

Your point of contact for this project is _____.

SECTION 6: LETTER TO WAIVE FAIR MARKET VALUE (SAMPLE) & WAIVER TO RECEIVE FAIR MARKET VALUE

SAMPLE LETTER TO LANDOWNER REGARDING OPTION TO WAIVE RIGHT TO RECEIVE FAIR
MARKET VALUE (FMV)

SPONSOR LETTER HEAD

Dear Property Owner:

Enclosed with this letter are several documents concerning the relationship of your property to the _____ (*project*).

The (*sponsor*) is asking all owners of property within the Project limits to convey an easement over that portion of property to the (*sponsor*). You will no longer own all rights into the property, but the (*sponsor*) is forever required to use the property exclusively for _____.

If you do not wish to have an appraisal done on your property, indicating your willingness to grant an easement or donate your property to the (*sponsor*) for beach purposes, please sign the revised “Waiver of Right to Receive Fair Market Value” form and return it as soon as possible. Under federal law, you have a right to an appraisal on that portion of property the (*sponsor*) wishes to acquire.

If you do not return the form, an appraiser appointed by the (*sponsor*) will contact you. He/she will notify you of the date the appraisal will be made and will invite you to meet with him/her if you so desire. If you want an appraisal made of your property, you may indicate that on the bottom of the “Waiver” form and return it immediately.

If you wish to sign the “Waiver” form, make sure you have your signature witnessed. Once the form is completed, mail it to (*sponsor name and address*). If you have any questions, please contact the undersigned at (*area code*) (*phone number*).

Sincerely,

(*Sponsor Representative*)

WAIVER OF RIGHT TO RECEIVE FAIR MARKET VALUE

_____ County

State of _____

WHEREAS (landowner) desires to donate to the (Sponsor) the use of certain real estate to be used as a (estate) situated in _____ County, (State), being more particularly described as follows: See Attached Exhibit "A" for subject property map and complete legal description of subject property.

Tax Map/Parcel No.: _____

Current Address: _____

Otherwise Known Legally As: _____

AND WHEREAS under the applicable provisions of the Uniform Relocations Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended, any landowner donating lands, easements, rights-of-way, and dredged material disposal areas for construction and subsequent operation and maintenance for Federal or Federally assisted projects is entitled to receive fair market value as compensation for said property.

NOW BE IT KNOWN that (landowner), (through its undersigned duly authorized owner/officers), hereby acknowledges the fact that he/she/it is aware of the right to receive fair market value for the above described premises and does hereby forever waive such right to receive fair market value for the above-described property. This waiver is binding upon said landowners, his/her/its heirs, successors, and assigns.

LANDOWNER

DATE: _____

WITNESS: _____

SECTION 7: "Uniformed Relocation Assistance and Real Property Acquisition Policies Act of 1970" (Public Law 91-646) and Title IV, "Uniform Relocation Act Amendments of 1987", (Public Law 100-17).



Federal Register

**Tuesday,
January 4, 2005**

Part V

Department of Transportation

Federal Highway Administration

49 CFR Part 24

**Uniform Relocation Assistance and Real
Property Acquisition for Federal and
Federally-Assisted Programs; Final Rule**

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****49 CFR Part 24**

[FHWA Docket No. FHWA-2003-14747]

RIN 2125-AE97

Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs**AGENCY:** Federal Highway Administration (FHWA), DOT.**ACTION:** Final rule.

SUMMARY: The FHWA is revising the regulation that sets forth governmentwide requirements for implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act). These changes will clarify present requirements, meet modern needs and improve the service to individuals and businesses affected by Federal or federally-assisted projects while at the same time reducing the burdens of government regulations. The regulation has not been fully reviewed or updated since it was issued in 1989. These amendments to the Uniform Act regulation will affect the land acquisition and displacement activities of 18 Federal Agencies including the new Department of Homeland Security.

DATES: *Effective Date:* February 3, 2005.

FOR FURTHER INFORMATION CONTACT: Mamie L. Smith, Office of Real Estate Services, HEPR, (202) 366-2529; Reginald K. Bessmer, Office of Real Estate Services, HEPR, (202) 366-2037; or JoAnne Robinson, Office of the Chief Counsel, HCC-30, (202) 366-1346, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:**Electronic Access**

An electronic copy of this document may be downloaded by using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may also reach the **Federal Register's** home page at: <http://www.archives.gov> and the Government Printing Office's database at: <http://www.gpoaccess.gov/nara/>.

Background

Title 49, CFR, part 24 implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601 *et*

seq., (the Uniform Act). The Uniform Act applies to all acquisitions of real property or displacements of persons resulting from Federal or federally-assisted programs or projects and affects 18 Federal Agencies. This regulation has not been comprehensively revised or updated since its initial publication in 1989.

The FHWA, as the lead Federal Agency, hosted an all-Agency meeting in 2001 to begin discussions about a comprehensive review of this regulation because of numerous requests from various Agencies to update 49 CFR Part 24. The FHWA worked with the 18 other Federal Agencies to form a Federal Interagency Task Force to explore the need to revise this regulation. The FHWA then hosted five nationwide public listening sessions to gather public input into the need for regulatory reform.

After receiving public input, working with the Interagency Task Force and incorporating recommendations from all 18 Federal Agencies, the FHWA published a notice of proposed rulemaking (NPRM) on December 17, 2003 (68 FR 70342). The NPRM proposed revisions to the Uniform Act regulation that would clarify present requirements, meet modern needs and improve the service to the individuals and businesses affected by Federal or federally-assisted projects while at the same time reducing the burdens of government regulations. An extensive history of the Uniform Act's implementation, and a comprehensive narrative outlining the efforts to update this regulation is discussed in the preamble to the NPRM in great detail.

Public Meetings

During the comment period to the NPRM, the FHWA hosted three additional public meetings (in Washington, DC; Atlanta, GA; and Lakewood, CO) to discuss the proposed changes to the regulation as outlined in the NPRM. The meetings were held to assure that every opportunity was offered to encourage additional public and stakeholder comment on the proposed changes. A total of 60 individuals and organizations attended the three public meetings. Also, during the comment period, the FHWA posted on its Web site a pre-addressed comment form for easy access and mailing to the docket.

Discussion of Comments Received to the Notice of Proposed Rulemaking (NPRM)

In response to the NPRM published on December 17, 2003, the FHWA received 775 comments to the docket.

The 775 comments were received from 80 individual commenters. The commenters included a variety of groups and organizations, such as local public Agencies, State Highway Administrations, private real estate and environmental consulting firms and interested individuals.

Of the 775 docket comments, 62 were positive and supportive of the proposed changes and 58 were on subjects where no change had been proposed. Thirty comments were programmatic questions and will be answered through a follow-up question and answer memorandum, and 26 comments requested increases in statutory limits that cannot be addressed in the regulations. On March 3, 2004, all 18 Federal Agencies were invited and encouraged to send representatives to an Interagency Federal Task Force (IFTF) meeting to review and respond to the 775 comments. Of the 18 Federal Agencies, 12 responded by sending one or more representatives. Following the initial meeting, four additional IFTF meetings were held and all 775 comments were categorized into subparts discussed individually, and evaluated. The FHWA, as Lead Agency, would like to thank the Department of Housing and Urban Development (HUD) who worked closely with FHWA to organize and share in hosting the work group meetings to assure that all comments were carefully considered.

Section-by-Section Discussion Changes*Subpart A—General*

Section 24.1(b)

One commenter indicated that § 24.1(b) should include an anti-discrimination purpose.

A number of Federal statutes (notably the Civil Rights Acts of 1964 and 1968) and Executive Orders apply to Agencies carrying out Federal or federally-assisted programs, and prohibit discrimination on the basis of race, color, sex, age, religion, national origin or disability. These legal authorities are self-executing and do not require specific mention in a rule implementing the Uniform Act to find effect. Any explicit listing of such provisions in this regulation runs the risk of inadvertent omission, creating the implication that any legal authority not referenced is somehow inapplicable.

Section 24.2 Definitions and Acronyms

Two commenters suggested various formatting changes. One suggested that clarity and readability would be improved by stating each defined term only once, rather than entry as a heading, followed by repeating the term

in the definition. Another suggested that we adopt simplified formatting.

We appreciate these comments, however, we will keep the same format in this final rule.

Section 24.2(a) Personal Property

One commenter requested that we add a definition of personal property.

We considered the request, however, after surveying the varying State laws that define personal property, we have determined that it would not be feasible to provide a single definition that would fit within all State laws. Therefore, whether an item is personal property or real property will continue to be left to State law.

Section 24.2(a)(5) Citizen

One commenter requested that we define or clarify the term “noncitizen national” used in the definition of “citizen” in § 24.2(a)(5).

The term “noncitizen national” was added to the definition of citizen in 1999 (64 FR 7130). The term includes persons from certain United States possessions, such as American Samoa, who are considered citizens for purpose of this part. Accordingly, no change in the final rule is necessary.

Section 24.2(a)(6)(ii) Comparable Replacement Dwelling

Ten comments were made on the proposal to remove the phrase “style of living” from the definition of comparable replacement dwelling. The majority of the comments were in favor of removing the phrase; however, two commenters were concerned that the displaced person’s rights would be diminished if the phrase is deleted.

We carefully considered removing “style of living” from the definition of comparability, and we determined that the displaced person would not suffer any erosion of protections provided by existing comparability requirements. The phrase “style of living” has sometimes been misused and has proven to be confusing.

Occasionally, the phrase has been used out of context and interpreted to require identical unique features found in acquired dwellings. In such cases, the standard for replacement housing has been raised to a level above “comparable.” This interpretation can make it nearly impossible to find appropriate replacement housing and could result in replacement housing payments greater than those intended by the Congress.

A more complete explanation can be found in the preamble to the NPRM (68 FR 70344). The Congress recognized that strict and absolute adherence to an

exhaustive, detailed, feature-by-feature comparison can result in rigidities. We believe other criteria currently under the definition of comparability will adequately cover the factors covered by “style of living” and, therefore, have not included this phrase in the final rule.

Section 24.2(a)(6)(viii) Deductions from Rent

One commenter objected to the proposed addition of language in § 24.2(a)(6)(viii) that would have allowed rent owed to an Agency to be taken into account when determining whether a comparable replacement dwelling is within a displaced person’s financial means. The comment noted that State landlord/tenant laws normally govern disputes over rent, and that § 24.2(a)(6)(viii) should not, in effect, supercede the tenant protections contained in such laws in determining a displaced person’s financial means.

We agree with this comment, and accordingly have not adopted the language that would have considered any rent owed the Agency in determining financial means.

Section 24.2(a)(6)(viii) Financial Means

The Uniform Act requires that comparable replacement dwellings must be “within the financial means” of a displaced person. This term is defined further within the definition of comparable replacement dwelling. The NPRM proposed simplifying the definition of financial means by consolidating it from three paragraphs to a single paragraph. No change in meaning was intended.

We received 12 comments on this proposed change. The commenters expressed two major concerns. First, several comments indicated that consolidating the separate paragraphs relating to owners and tenants was confusing and might, in some cases, result in changes to replacement housing payments.

After further consideration, we believe these comments are correct, and, accordingly, have not adopted the proposed consolidation. (We have, however, deleted some redundant language relating to welfare assistance programs that designate amounts for shelter and utilities, since this is now addressed in § 24.402(b)(2)(iii).)

Secondly, because of other related changes in the NPRM, several commenters stated that the proposal would no longer adequately address the benefits to be provided to a person who is not eligible to receive replacement-housing payments because of a failure to meet the necessary length of occupancy requirements. Such persons are still

entitled to receive comparable replacement housing within their financial means.

Besides proposing to simplify the description of financial means, the NPRM also proposed changing the way the rental replacement housing payment would be computed by revising the description of “base monthly rent” in § 24.402(b)(2), and removing the reference to 30 percent of income in § 24.404(c)(3) (which describes the eligibility of persons that fail to meet the length of occupancy requirements). The later two changes have been adopted, as discussed further in this preamble.

We agree that the proposed changes left it unclear as to the benefits that were to be provided to persons who failed to meet length of occupancy requirements. Accordingly, we have retained a paragraph (§ 24.2(a)(6)(viii)(C)), within the description of financial means, that addresses those persons, described in § 24.404(c)(3), who do not meet length of occupancy requirements. It is similar to the current provision, and provides that the payment to such persons shall be the amount, if any, by which the rent at the replacement dwelling exceeds the base monthly rent described in § 24.402(b)(2), over a period of 42 months.

Section 24.2(a)(6)(ix) Subsidized Housing

Several commenters took issue with the proposed change to apply a government housing subsidy program’s unit size restrictions when providing comparable replacement housing.

It appears that several of the commenters did not understand how the government subsidy programs work. The choice of a replacement dwelling is always left to a displaced person, but a displaced tenant’s eligibility for relocation assistance is premised upon the selection of a decent, safe and sanitary “comparable” dwelling. The existing regulations have long provided that a comparable dwelling, in the case of a person displaced from housing receiving certain project-based or voucher based subsidies, is another dwelling unit receiving the same or a similar subsidy.

In such cases the HUD program requirements for subsidized housing, may limit the unit size of available subsidized housing by applying a determination as to a family’s current needs, even though the displacement dwelling may have been larger. This final rule acknowledges these requirements, and provides in § 24.2(a)(6)(ix) that the requirements of government housing assistance

programs, relating to the size of the dwelling unit that may be provided, apply when such housing is used as a comparable replacement dwelling.

A person displaced from a subsidized unit may elect to relocate to housing available on the private market without subsidy, but the available relocation payment will be limited by a computation using a comparable subsidized unit. In most cases, the long-term housing subsidy available to someone displaced from a subsidized unit, will be more advantageous than a relocation payment based on the selection of a dwelling available on the private market. The relocation payment for a dwelling on the private market is limited to a rental differential for a 42-month period by the Uniform Act.

Section 24.2(a)(8)(ii) Decent, Safe and Sanitary

Twenty comments were received concerning the inclusion of standards relating to deteriorated paint or lead-based paint in the definition of “decent, safe, and sanitary dwelling” in § 24.2(a)(8). While all of these comments were favorable, there is no legal authority for mandating these standards in connection with the referral to comparable private market replacement housing under the Uniform Act. Accordingly, this language has been removed from the list of the mandatory elements of “decent, safe, and sanitary” replacement housing appearing in this regulation. Instead, we have included in appendix A a suggestion that such standards may be required by local housing and occupancy codes, and may, in any event be highly desirable in protecting the health and safety of displaced persons and their families.

Section 24.2(a)(8)(iv) Housing and Occupancy Codes

Of the seven comments received on § 24.2(a)(8)(iv) having to do with using local housing and occupancy codes to determine whether the unit is decent, safe and sanitary, most were concerned with determining the number of rooms and living space per individual. One commenter requested that the FHWA set a minimum number of square feet in a bedroom for each occupant as well as set an age standard for bedrooms occupied by siblings of opposite gender.

The protection of the public health, safety and welfare is an essential power of a sovereign government specifically reserved to the States. Accordingly, this regulation references local housing and occupancy codes as the primary source for defining “standard” housing. (In the case of certain federally subsidized replacement housing, federally-issued

“housing quality standards” may be employed where such codes do not exist or are not applied to such housing.)

As was noted in the preamble to the NPRM, the existing regulatory policy on this subject would apply only in the absence of local codes. This has been clarified in § 24.2(a)(8)(iv). Questions of whether contrary or more restrictive housing and occupancy standards than those found in a local code, imposed by State law, must be deemed to override these local standards must be determined as a matter of State law by courts of competent jurisdiction or by the State’s Attorney General, and cannot be addressed in these regulations.

Section 24.2(a)(8)(vi) Egress to Safe Open Space

We received three comments concerning the removal of the requirement that replacement housing units have two means of egress when replacement units are on the second story or above and have direct access to a common corridor. One was in favor of the change, a second was uncertain as to the purpose of the requirement and another was against the change for fear of the safety risks to the displaced person.

This is an area best handled through local fire and building codes and does not require Federal guidelines to assure the safety of displaced persons. There was overwhelming support for removing the requirement from our five national Public Listening Sessions that we held leading up to preparations of the NPRM. Therefore, no change was made to the language proposed in the NPRM.

Section 24.2(a)(8)(vii) Disability

Thirteen commenters requested that the definitions of Comparable Replacement Dwelling and Decent Safe and Sanitary Dwelling (and the corresponding provisions of appendix A) go into more detail regarding the needs of persons with disabilities, as well as a variety of disabilities.

Because the needs of persons who are disabled are addressed by other Federal or local statutory and regulatory requirements, which may or may not apply to any individual project which triggers the Uniform Act, we believe it is unnecessary to elaborate further in this rule except as noted in appendix A. The final rule addresses the need to accommodate the displaced person’s needs in terms of unit size, location, access to services and amenities, reasonable ingress, egress or use of a replacement unit, and therefore, we do not believe additional detail is necessary.

We agree that there is a need to revise some of the language in appendix A, § 24.2(a)(8)(vii) to address the physical attributes of replacement housing for persons with physical disabilities beyond those dependent on a wheelchair. Therefore, we have broadened the language in the final rule to include persons with a physical impairment that substantially limits one or more of the major life activities of such individual. We have not addressed the needs of other nonphysical disabilities (such as mental impairment) in this rule since it is unclear what unit attributes would need to be addressed for this class of persons and any needs of such persons would be more appropriately addressed by other statutory and regulatory requirements.

Section 24.2(a)(9)(ii)(D) Temporary Relocation

In 1987, the Uniform Act was amended to cover displacement from Federal and federally-assisted programs or projects as a direct result of rehabilitation. To counter the disincentive this might create for a tenant temporarily displaced from a residence while that residence is being rehabilitated, we considered such a person not to be displaced, if, and only if, certain stringent protections are applied. These included covering moving expenses to and from the temporary location, payment of increased housing costs during the period of relocation, the guarantee of a return to the same unit, or to another suitable unit in the same building or complex, and a limitation on a rental increase at the rehabilitated replacement unit.

We believe that this interpretation of the law, to create an exception to its general applicability, must be limited and strictly applied, in order to meet the intent of Congress. Accordingly, the NPRM proposed that displacement for a period exceeding 12 months must ordinarily be considered significant enough to fall within the general rule pertaining to displacement as a direct result of rehabilitation, and not to come within the limited exception to the definition of “displaced person” which the law establishes. Therefore, the language proposed in the NPRM will not change.

We received eleven comments on the proposed language further describing temporary relocation in § 24.2(a)(9)(ii)(D) of appendix A. Two comments supported this change. However, we are seriously concerned that several of the commenters appear to believe that a person who is displaced by a project that triggers the Uniform

Act can somehow be exempted from full relocation assistance benefits as a displaced person if the Agency terms his/her relocation "temporary", regardless of the required length of time or hardship caused to the displaced person. We are further concerned that some commenters seem to consider the cost to their project more important than the protection provided by the Uniform Act. This may indicate that appropriate project and relocation planning is not taking place. It is for this reason that additional clarity concerning temporary relocation has been added to the rule.

Several commenters referenced the HUD policies on temporary relocation. HUD has indicated for years that it has always restricted "temporary relocation" to situations where the Uniform Act trigger was rehabilitation. In such cases, a tenant was guaranteed the right to return to a unit in the project prior to moving from the displacement dwelling. In recent years, HUD has permitted grantees to consider up to one year as acceptable temporary relocation duration, but again, only where the Uniform Act trigger is rehabilitation. However, HUD reports that some HUD grantees may have abused this policy and stretched it to apply in situations which are clearly beyond the scope of "temporary," where an entire building or group of buildings is being demolished and will be replaced with fewer units. In this situation, displaced persons cannot be guaranteed a unit in the new building(s) at the time they are required to move from the displacement unit for reasons including: there may be insufficient units rebuilt; former tenant may not meet newly adopted return criteria, and, return to the project may not be for years simply because of the massive demolition and rebuilding that must take place. While many of these sorts of projects purport to allow displaced tenants to return, the reality is that few can. We do not support advising tenants that they are only being temporarily relocated, and are not displaced, when their actual return to a unit in the project is in doubt, and/or may not be for an extended period of time. Further, permanently displacing a person and providing them with full relocation assistance under the Uniform Act should not automatically negate their ability to apply for or return to the site of the HUD funded project that caused their displacement. Many HUD projects give preference to former tenants who want to return.

The rule, now requires that any residential tenant who has been temporarily relocated for a period beyond one year must be contacted by

the Agency and offered all permanent relocation assistance.

One commenter suggested imposing the same one-year requirement upon owner occupants and nonresidential occupants. The final rule adopts language in the proposed rule that provides that "temporary relocation should not extend beyond one year before the person is returned to his or her previous unit or location." We believe this establishes a sound policy that should be followed in most cases. We recognize, however, that in some situations, involving temporary relocations caused by disasters or public health emergencies, Agencies may not be able to provide permanent relocation benefits to such occupants within one year, if ever, because of statutory or programmatic limitations.

We also agree with the commenter who suggested that a temporary move of personal property is not intended to be covered by the one-year limitation on temporary moves.

We expanded the language in appendix A, § 24.2(a)(9)(ii)(D), to cover "rehabilitation or demolition" as suggested by one of the commenters. As noted, we are not changing the language relative to "one year" as we believe this is a reasonable time for any tenant to be in temporary housing (one year is a fairly common initial lease period across the United States). After the one-year period, the final rule requires that a residential tenant be offered permanent relocation assistance. Such tenants may be given the opportunity to choose to continue to remain temporarily relocated for an agreed to period (based on new information about when they can return to the displacement unit), choose to permanently relocate to the unit which has been their temporary unit, and/or choose to permanently relocate elsewhere with Uniform Act assistance. It is expected that temporary relocations will be rare, and, for HUD funded projects, clearly planned for in the development of the project, and used only where a tenant is guaranteed a replacement unit in the project or unit from which they were displaced.

Section 24.2(a)(9)(ii)(M) American Dream Downpayment Initiative (ADDI)

A new paragraph, § 24.2(a)(9)(ii)(M), has been added to the list of "persons not displaced" to reflect a provision, added by Section 102 of the American Dream Downpayment Act (Pub. L. 108-186; codified at 42 U.S.C. 12821) provides that the Uniform Act does not apply to the American Dream Downpayment Initiative (ADDI), a downpayment assistance program

administered by the Department of Housing and Urban Development.

Section 24.2(a)(11) Dwelling Site

We received nine comments in response to the proposed definition of dwelling site. Most agreed that it was needed. Six commenters asked that additional information be provided on what constitutes a dwelling site.

We agree and are revising the definition for clarity. We have provided specific examples in appendix A as to when its use is appropriate.

Section 24.2(a)(12) Eviction For Cause

We received nine comments on the proposal to simplify the eviction for cause provisions in § 24.206 by moving some of them to a new definition in § 24.2(a)(12). Several commenters found this proposal to be confusing, and believed that it resulted in substantive changes to the eviction for cause provisions. This was not our intent, and accordingly we have not adopted the changes to § 24.206 and the new definition that were proposed in the NPRM. We have retained the current regulatory language in § 24.206.

One commenter objected to a clarifying sentence proposed in § 24.206 of appendix A, which simply stated that an eviction related to project development does not affect entitlement to relocation benefits. The commenter felt that this conflicted with the current eviction for cause provisions. However, we have retained the language in appendix A to make it clear that evictions related to scheduled project development, to gain possession of property, do not affect relocation eligibility. As noted in § 24.206, a person who is a lawful occupant on the date of initiation of negotiations is presumed to be entitled to relocation benefits, and can only be denied relocation benefits if the person had received an eviction notice prior to the initiation of negotiations, or is evicted thereafter "for serious or repeated violations of material terms of the lease or occupancy agreement." We do not consider an eviction resulting from a failure to move or relocate when asked to do so, or to cooperate in the relocation process for a federally funded project, to be based on a "serious or repeated violation of material terms" of a lease or agreement.

If an eviction is "for the project" (resulting from a failure to move or relocate when asked to do so, or to cooperate in the relocation process) such an eviction cannot be considered as "serious or repeated violation of material terms" of a lease or agreement unless, prior to executing the lease, the

tenant was notified in writing of the proposed project and its possible impact on him/her and that he/she would not be eligible for relocation payments. While public housing leases may have a clause requiring that a tenant move or cooperate in a move, these provisions are included for the purpose of adjusting unit size as necessary for changes in family composition, and do not negate the tenant's eligibility for relocation benefits caused by a federally-assisted project which triggers the Uniform Act.

Section 24.2(a)(13) Financial Assistance/Lease Payments

One commenter objected to the proposed addition of the term "lease payment" in the definition of "Federal financial assistance" in § 24.2(a)(13). The commenter noted that this term is not included in the statutory definition of "Federal financial assistance" and its addition could have major consequences that were not mentioned or considered in the NPRM. We agree and have deleted the term.

Section 24.2(a)(14) Household Income

We received 16 comments concerning the new definition of household income. Most of the comments were positive and in support of the new definition. However, four commenters requested that we go further in our definition of household income by adding additional examples. Several of the same commenters also requested that the examples given in appendix A be moved to the definition in § 24.2(a)(14).

Because the sources of household income constantly change and vary by household, we will not produce a more definitive list of income sources. Based on the experience of other Federal Agencies that use definitions of income, such definitions can never be totally comprehensive or timely, and could render the regulations outdated within a short period of time. Displacing Agencies need to determine income for each individual or family based on whatever financial resources are available (earned, unearned, benefits, etc.). When a question arises as to whether something should be considered as income, the Federal Agency administering the program should be contacted for its assessment. To further assist in the determination of income exclusions, the FHWA has provided a Web site, (*see* appendix A, § 24.2(a)(14)), of income exclusions that are federally mandated. The income exclusions change periodically based on congressional action and the FHWA will update the Web site as necessary.

We are opposed to moving the examples in appendix A to the definition. The examples are to support the definition and should not be a part of the definition. Therefore, they will remain in appendix A.

One commenter suggested that we change the language in the definition to assure that income claimed is actually received. It is our position that the responsibility for verifying income should be left to the acquiring Agency.

One commenter raised the concern that we have not made provisions for changes that may occur in the income stream throughout a 12 month period. We suggest that if the income changes before the relocation offer is made, that an adjustment be made based upon verification of the change in income. Otherwise, we suggest using the income stream in existence at the time of the relocation offer. The amount of a displaced tenant's replacement housing payment should not be adjusted if the tenant's income later changes. The Uniform Act envisions a rental assistance payment that is determined once, and which is not affected by subsequent events. Replacement Housing Payments under the Uniform Act are not to be confused with rental or homeownership subsidy programs. There is no statutory provision for adjusting relocation claims or payments based on changes in income after the eligibility determination has been made.

Section 24.2(a)(15) Initiation of Negotiations

The NPRM proposed adding paragraph (iv) to the definition of Initiation of Negotiations (ION) in § 24.2(a)(15), to address ION for acquisitions that occur amicably, without recourse to the power of eminent domain. The intent was to avoid establishing a tenant's relocation eligibility before there was any certainty that the property would actually be acquired.

We received 21 comments on this change. A major concern was that delaying tenant eligibility in these cases, until the owner accepts an offer to purchase, might have an adverse effect on such tenants by, for example, their being forced to move as part of the pre-acquisition negotiations, as well as otherwise increasing uncertainty in program management.

In response, we have revised paragraph (iv) in the final rule to provide that ION means the actions described in paragraphs (i) and (ii), for routine Agency acquisitions, except that, in the case of amicable acquisitions covered in paragraph (iv), the ION does not become effective for purposes of

establishing relocation eligibility until there is a written agreement between the Agency and the owner to purchase the property. This would establish the potential relocation entitlement of tenants at the time negotiations begin, but would not provide relocation benefits in the event no agreement was reached to acquire the property. Such tenants should be fully informed of their potential eligibility.

In response to a comment we also changed the reference to "acceptance of the Agency's offer to purchase the real property" to "written agreement between the Agency and the owner to purchase the real property," for greater clarity and specificity.

At the request of the Environmental Protection Agency (EPA), the language in § 24.2(a)(15)(iii), concerning the initiation of negotiations on superfund related projects, has been updated and clarified, primarily to delete references to a "Federal or federally-coordinated health advisory." Such health advisories are general in nature and are rarely related to determinations that relocation is necessary. Rather, the action that triggers relocation is a fact-based determination by the EPA, or the Federal Agency conducting an action under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96-510 or Superfund) (CERCLA), that temporary relocation or acquisition is necessary because there is a threat to an individual's health or safety. Typically, on such projects, temporary relocation occurs first, and then, if warranted by the circumstances, it may be followed by permanent relocation. Similar clarifications have also been made in appendix A, § 24.2(a)(15)(iii).

Section 24.2(a)(17) Mobile/Manufactured Homes

A new definition for the term "mobile home" has been added to this section. Six comments were received on this proposed addition. Five commenters agreed that the definition was needed, and three comments proposed changes to the definition to differentiate between mobile homes, manufactured housing and recreational vehicles. The term "mobile home" includes both manufactured homes and recreational vehicles used as residences. Appendix A explains that "mobile homes" and "manufactured homes" are recognized as synonymous by HUD for that Agency's programs, and for purposes of this regulation will be considered the same. Appendix A also includes further requirements that recreational vehicles must meet in order to qualify as replacement housing in appendix A.

(Subpart F continues to include an explanation of the different methods of computing relocation assistance when a mobile home has been determined to be personal property, and when it is determined to be real property.)

Section 24.2(a)(22) Program or Project

One commenter requested a more detailed definition of the term “project.” Federal Agency experience over the years has amply demonstrated that it is not feasible to devise a common definition of “project” which could apply to all Federal and federally-assisted programs subject to the Uniform Act. Widely varying legislative and administrative histories of the various programs currently covered, as well as (in some cases) decades of practice, have led to the conclusion that the broad definition of “project” should remain unchanged. To alter the present definition might prove highly disruptive to the administration of many programs administered by Federal Agencies.

However, Federal Agencies should always interpret the term “project” in a way that will ensure that persons who are forced to move as a result of Federal or federally-assisted activities are covered by the Uniform Act.

Section 24.2(a)(30) Utility Costs

Two commenters suggested further clarifying the expenses that are included in the definition of utility costs. In response, we have replaced the reference to heat and light with a reference to electricity, gas, and other heating and cooking fuels.

Section 24.4(a)(3) Assurances

We received two comments opposing the changes proposed in the NPRM to § 24.4(a)(3) of the NPRM. One commenter was concerned that the proposed language would exempt Agencies undertaking arm’s length acquisitions from required compliance with the Uniform Act. Similarly, a second commenter brought to our attention that the proposed language may nullify the conditions set forth in CFR 49 Part 24.101(b)(1). We did not intend to undermine the requirements of other sections of the regulations, therefore, after careful review, we agree that the proposed language may be perceived to conflict with the provisions in § 24.101(b)(1), and have not adopted the proposal in the final rule.

Section 24.8 Compliance with Other Laws and Regulations

Several commenters suggested the inclusion of additional laws and regulations within § 24.8.

The existing regulatory language requires the implementation of this part to be in compliance with other applicable Federal laws and implementing regulations, including, but not limited to the laws and regulations cited. The list is merely a representative sample of some significant laws and regulations and is by no means intended to be a comprehensive listing of all applicable laws and regulations. An applicable law or regulation is not required to be cited in this section to be applicable to this part. Therefore, no change is considered necessary. However, for clarity, we have corrected two existing laws. We have added, “as amended” after the reference to the Robert T. Stafford Disaster Relief and Emergency Assistance Act in § 24.8(n); and, we have added a reference to EO 12892, Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing (January 17, 1994), § 24.8(o). EO 12892 replaced EO 12259.

Section 24.9 Records and Reports

We received twelve comments on the proposed revisions to § 24.9(c), which proposed to require each Federal Agency to submit an annual report summarizing its relocation and acquisition activities. One commenter supported this change and one sought further clarification. The remaining ten commenters opposed this change, primarily on the grounds that it would impose significant administrative burdens and would have little apparent value.

It was not our intent to increase administrative burdens. As was noted in the NPRM, our primary interest was in obtaining more accurate information, to more effectively monitor implementation of the Uniform Act. However, due to the negative comments received, we have decided not to adopt the proposed change.

Further, since no comments objected to the proposed simplification of the report form in appendix B, we have adopted the proposed form and the instructions for its use. The simplification of the form may lead to greater use by Agencies.

Outside the context of Part 24, the lead Agency will explore the possibility of obtaining such additional acquisition and displacement information from other Federal Agencies as may result from routine Agency operations and oversight.

Subpart B—Real Property Acquisition

We received a comment that the NPRM proposed change to replace the term “fair market value” with “market

value” throughout Subpart B to better reflect current appraisal terminology was neither minor nor reflected universally accepted eminent domain terminology throughout the country.

Upon further examination, we determined that “fair market value” terminology is consistent with Uniform Act language and it appears that Federal courts see no difference in the terms “fair market value” and “market value.” Accordingly, we have retained the terminology “fair market value” throughout the subpart, except for § 24.101(b)(1) through (5), where eminent domain is not applicable. But we have added language to appendix A noting that for Federal eminent domain purposes, the two terms may be synonymous.

Section 24.101(a) Direct Federal Program or Project

Federal Agencies advised us voluntary transaction provisions were being used to a significant extent and suggested that these exceptions should no longer apply to acquisitions by Federal Agencies. Their proposal to eliminate this provision for Federal agencies direct purchases is consistent with section 305(b)(2) (42 U.S.C. 4655(b)(2)) of the Uniform Act, which allows these exceptions for recipients of Federal financial assistance, but provides no such exceptions for Federal Agencies themselves. We included the Agencies’ suggested revision in the NPRM.

Formerly, the two major exceptions to real property acquisition requirements in Subpart B were voluntary transactions and acquisitions in which the Agency does not have the power of eminent domain. We restructured this section to clarify the application of the real property acquisition requirements set forth in this subpart, and to revise the exceptions to those requirements.

We have adopted the Agencies’ proposed change in the final rule, but the exceptions for federally-assisted projects and programs remains in § 24.101(b).

One commenter objected to excluding direct Federal acquisitions from voluntary transaction procedures because the commenter believed that where an Agency acquired a property that was listed for sale, it would create a windfall for that property owner by allowing the owner to receive Uniform Act benefits.

However, as noted elsewhere in this rule (See § 24.2(a)(9)(ii)(E) and (H) and 24.101(a)(2)), if a property owner voluntarily conveys his or her property, without recourse to the power of eminent domain, he or she would

continue to be ineligible for relocation benefits.

Based on a comment we added the word "direct" to the title of § 24.101(a) for clarity. We also added language to appendix A to further clarify the applicability of this paragraph.

We updated language in the rule and in appendix A to reflect the Rural Utilities Service, successor Agency to the Rural Electrification Administration.

We added § 24.101(a)(2) to make it clear that, despite the rule change to make all direct Federal acquisitions undertaken without recourse to the power of eminent domain subject to the provisions of Subpart B, the owners of property acquired voluntarily by direct Federal acquisition, continue to be ineligible for relocation assistance benefits.

Section 24.101(c) Less-Than-Full-Fee Interest in Real Property

There was a comment suggesting we move the language from appendix A, discussing Agencies applying these regulations to any less-than-full-fee acquisition, into the body of the rule itself for greater clarity.

We agree, and the final rule reflects this change.

Section 24.102 Basic Acquisition Policies

We received a comment stating that § 24.102 relates only to acquisitions under the threat of eminent domain, and should be retitled to reflect that.

We respectfully disagree with this comment and note the exceptions to the applicability of Subpart B, Real Property Acquisition, are in 49 CFR 24.101.

Section 24.102(c)(2) Appraisal, Waiver thereof, and Invitation to Owner

We received 28 comments on the NPRM appraisal waiver provisions. Twelve support the changes proposed in the NPRM.

Five commenters disagree with the proposed "two-tier" waiver threshold, especially the provision that the property owner be given the option to have an appraisal if the Agency wishes to use a waiver threshold between \$10,000 and \$25,000. These comments expressed the position that this procedure would be confusing and not really accomplish much.

In response to the language proposed in the NPRM, we received comments requesting waiver thresholds far in excess of \$10,000. However, the Agencies are not comfortable with a waiver threshold over the proposed \$10,000 limit without additional safeguards for the property owner. Part of this caution is based on the regulatory

history of the present policy, which links the appraisal waiver threshold to the cost of appraisal, i.e., a concern that appraisal costs were exceeding acquisition costs. The final rule does not change the NPRM proposal. We point out that use of the appraisal waiver provision is optional for an Agency, so if appraisal waiver provisions become burdensome or ineffective, the Agency need not implement them.

Two commenters expressed concern that appraisal waiver provisions risked property owner protection and were inconsistent with OMB Circular 92-06, which states, "Agencies should prepare real estate appraisal and appraisal review reports in accordance with written and approved agency standards consistent with the Uniform Standards of Professional Appraisal Practice (USPAP), sections (sic) I-III, as developed by the Appraisal Standards Board of the Appraisal Foundation."

We point out that appraisal waivers for low value acquisitions are specifically authorized by the Uniform Act, Section 301(2). We share the concern that property owners retain protections intended by the Uniform Act. That is one reason why we did not raise the waiver threshold to any higher level. As for the issue of consistency with USPAP, appraisal waiver is not an appraisal performance issue, but an issue about when an appraisal is needed under Federal law.

A question was also raised as to whether the threshold applies to the value of the larger parcel (before value) or the value of the proposed acquisition.

The regulation states that it applies to the "anticipated value of the proposed acquisition."

One commenter suggested removing the "on a case-by-case basis" language from proposed § 24.102(c)(ii) because it created confusion.

We did remove the "on a case-by-case-basis" language from the final rule as it was unclear.

There was one comment expressing concern about situations where a high percentage of an Agency's acquisitions may be through appraisal waiver procedures.

The FHWA shares that concern and is considering initiating research to examine this issue as it applies to our partner State DOTs; however, it is beyond the scope of this rulemaking action.

Two commenters pointed out (and support) that the NPRM proposed adding language that the determination to use an appraisal waiver must be made by a qualified person.

We are pleased to see not only support for this provision, but that it

was significant enough to comment on it.

Because of the number of comments indicating confusion in general as to the appraisal waiver provisions, we have added further explanation in appendix A.

Section 24.102(f) Basic Negotiation Procedures

Two commenters suggested that "reasonable opportunity" provided to an owner to consider and respond to an offer should be defined with a specific time frame (such as 30 days).

We did not include a required time frame, but appendix A does discuss the issue, stating that, depending on the circumstances, 30 days would seem to be a minimum time frame. We are reluctant to specify a time frame because we believe that circumstances can dramatically impact what is an appropriate reasonable opportunity to consider an offer and present information.

One commenter stated that giving property owners "a reasonable opportunity to consider the offer" has the potential to slow down project times.

We recognize this potential, however, we believe this statement reflects the primary purpose of the Uniform Act and this regulation, which is to assist and protect property owners and occupants.

One commenter suggested that Agencies should provide the owner and/or his/her appraiser a copy of the Agency's appraisal requirements and inform them that their appraisal should be based on those requirements.

This is an excellent idea, and we have included language to encourage Agencies to do this in appendix A.

One commenter suggested adding the word "all" to "reasonable efforts to contact the owner."

We agree and added the word "all" to the final rule for greater clarity.

Section 24.102(i) Administrative Settlement

Comments indicated support for this section, but noted that not much was changed. We agree. The revised language focuses more on clearly stating the supporting justification for settlements.

One commenter suggested that § 24.107, certain legal expenses, should be cross-referenced in this section.

Since the topics and issues are different, we did not make that change.

We have revised the language to require more specific information in the written justification ("state" rather than "indicate") and deleted specific suggestions ("appraisals, recent court

awards, estimated trial costs, or valuation problems”) in favor of requesting “what available information, including trial risks, supports the settlement.”

Section 24.102(n) Conflict of Interest

The NPRM proposed expansion of this section to include all persons making waiver valuations under § 24.102(c)(2). This change would bring equal conflict of interest standards to all individuals valuing real property, whether their work is waiver valuations, appraisal, or appraisal review, and would clarify who is covered.

We received 24 comments on the proposed revision to this section. The majority of comments referenced the proposal that any person functioning as a negotiator shall not supervise or formally evaluate the appraiser, review appraiser or person making waiver valuations.

Comments received focused on the impacts on Agency operations. A major concern was how an Agency could comply with the requirement that an appraiser, review appraiser or anyone making a waiver valuation not be supervised or evaluated by anyone negotiating for the property since currently most, if not all, managers frequently become involved in negotiations.

This is a difficult issue, but we, as well as the other affected Federal Agencies, continue to support the provision providing independence for appraisers from officials negotiating to acquire the property.

One commenter recommended that no Agencies be exempted from appraiser independence provisions and suggested that streamlined appraisals and reports could be used to meet budgetary needs.

The exemption is not based on financial considerations, but rather on recognition that some small Agencies, especially Federal-assistance recipients such as local public Agencies, do not have the staffing levels that are needed to support the separation of functions.

One commenter wondered about the impact on consultants of providing independence for appraisers from officials negotiating to acquire the property, and suggested the ethical controls in the Uniform Standards of Professional Appraisal Practice (USPAP)¹ are sufficient.

¹ Uniform Standards of Professional Appraisal Practice (USPAP). Published by The Appraisal Foundation, a nonprofit educational organization. Copies may be ordered from The Appraisal Foundation at the following URL: <http://www.appraisalfoundation.org/html/USPAP2004/toc.htm>.

We note that USPAP controls apply to the appraiser, whose only recourse to inappropriate pressure from a manager or supervisor is refusal to do the assigned task. We believe that this does not adequately address conflict of interest concerns. Policing conflict of interest should not be the appraiser's responsibility. The impact on a consultant will ultimately be up to the funding Agency, which may waive this provision if it believes it appropriate to do so. Again, the responsibility to prevent undue pressure on an appraiser is on the Agency.

One commenter suggested the same (Agency) person should be able to procure contract appraisal services and serve as a negotiator.

This comment was from a local public Agency, which, as such, would be eligible for a waiver if granted by the Federal funding Agency, therefore we did not incorporate such a change.

One commenter expressed a concern that a Federal Agency could give itself a waiver from the requirement that negotiators may not supervise appraisers.

We believe the regulation is clear that the waiver is only for “a program or project receiving Federal financial assistance.” This precludes the Federal Agency from granting itself a waiver.

One commenter supported the exception in the last paragraph, which allows the appraiser, the review appraiser and preparer of a waiver valuation to also act as negotiator when the offer to acquire is \$10,000 or less. However, another commenter objected to this exception, stating the issue was too important to allow a waiver.

Another commenter suggested the \$10,000 threshold be raised to match the appraisal waiver threshold.

One commenter objected to allowing appraisers to act as negotiators in acquisitions under \$10,000.

We did not change the threshold amount because the participating Federal Agencies continue to believe that the \$10,000 limit provides a reasonable and appropriate exception for low value transactions. The rule adopts the conflict of interest language proposed in the NPRM.

Section 24.103 Criteria for Appraisals

One commenter asked if there is some way we could require that all appraisals prepared for use under the Uniform Act meet appraisal requirements in this rule. The commenter was referring to appraisals made other than for the Agency, such as for property owners.

Many jurisdictions grant broad authority to property owners to express their opinions about their property, and

some even compensate them for the costs of an independent appraisal. We see no way we can require appraisal requirements in this rule for property owners' appraisals or other valuation opinions. We suggest Agencies make available their appraisal requirements to property owners so at the least they will know what the requirements are for the Agency's appraisal(s).

The revisions relating to appraisals in §§ 24.103 and 24.104 are the first since The Appraisal Foundation published the USPAP in 1989. Considerable confusion and misunderstanding as to the applicability of the USPAP provisions to Uniform Act real property acquisitions have existed ever since USPAP was first published. The Uniform Act and 49 CFR part 24 set the requirements for appraisal and appraisal review in support of Federal and federally-assisted acquisition of real property for government projects. Many of the revised provisions of §§ 24.103 and 24.104 are intended to assist the appraiser, the Agency and others in understanding the requirements of these subparts in light of the USPAP.

We changed the terminology throughout this section from “standards” to “requirements” to avoid confusion with USPAP standards rules. We also added the phrase “Federal and federally-assisted program” to more accurately identify the type of appraisal practices that are to be referenced, and to differentiate them from private sector, especially mortgage lending, appraisal practice.

One commenter suggested we use USPAP Standards 1, 2 and 3 for several reasons. Certified and licensed appraisers in most States are required to comply with USPAP, and although the Jurisdictional Exception may be used where the USPAP is contrary to law or public policy, that complicates matters unnecessarily. Also, USPAP standards are already in place, and this would assure the Federal government, taxpayers and property owners that appraisals and appraisal reports comply with certain minimum standards.

Uniform Act appraisal requirements have been in place for some time and actually predate USPAP. They were put in place to do what the commenter suggests: provide assurance that when an Agency needs real property, all the parties involved are treated fairly. That is the primary purpose of the Uniform Act. As for the USPAP Jurisdictional Exception, we believe any “complication” is mostly based in misunderstanding of how it works. In any case, USPAP Jurisdictional Exceptions are by definition based in law or public policy and the Agency has

very little, if any, flexibility for optional compliance with the Uniform Act.

Section 24.103(a) Appraisal Requirements

In the NPRM we proposed stating that these regulations set forth the requirements for real property acquisition appraisals for Federal and federally-assisted programs to make it clear that other performance standards, such as USPAP and those issued by professional appraisal societies, do not directly govern programs covered by the Uniform Act. Based on the comments we received, this proposed language clarified the relationship between the appraisal requirements in this rule and USPAP and we have included that language in the final rule. Additionally, we have added further explanatory language in appendix A.

The NPRM proposed adding a requirement for a scope of work statement in each appraisal. The scope of work replaces the former appraisal problem statement. It also renders obsolete the former "minimum standards" and "detailed" appraisals, replacing them with an infinitely variable standard driven by the circumstances of each acquisition. We have included in appendix A a discussion on preparing the scope of work.

We received several comments supporting the adoption of the scope of work. One commenter suggested that the scope of work for Uniform Act purposes needs to be clearly differentiated from the scope of work required by USPAP.

As the publication of this regulation, the Appraisal Standards Board has not finalized the scope of work in USPAP, so it would be premature to attempt to differentiate. It is our hope that the two concepts will be consistent and that a scope of work written in compliance with this rule will be compatible with any future scope of work requirement in USPAP.

One commenter said that the appraiser should not be able to unilaterally determine the scope of the assignment or what the appraiser will provide the Agency. However, another commenter suggested that the appraiser should decide the scope of work, perhaps in consultation with the client (Agency). This comment was made as part of a discussion about the Agency instructing the appraiser that in certain circumstances, the sales comparison approach would be the only approach to value to be used.

We point out that Agencies have had input to the appraisal process under the old rule. First, the "sales comparison

approach only" option has been available to Agencies for many years and has, to our knowledge, caused no problems. Second, these requirements are written on the basis that the Agency is a "knowledgeable user" of appraisal services. That is, the Agency is familiar with both the appraisal process and its own needs, and is capable of participating in a legitimate statement of work to solve the appraisal problem. Accordingly, we believe that appraisers should not be given final authority over the appraisal process for an Agency. We believe it is appropriate that this option continue to be retained by the Agency.

One commenter said it believes the purpose and/or function of the appraisal, a definition of the estate being appraised, and if it is market value, its applicable definition, and the assumptions and limiting conditions should be stated separately, and not be in the scope of work.

We believe the scope of work, as a vehicle of agreement between the appraiser and the Agency, is the appropriate place to include these items. They should also be included in the appraisal report, as part of the scope of work statement.

One commenter questioned the meaning of "the extent appropriate" for application of the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA).²

The UASFLA is a publication that summarizes Federal eminent domain appraisal case and statute law. So, to the extent that an Agency either follows Federal eminent domain practices, or voluntarily adopts UASFLA as its appraisal guidelines, it may be applicable.

Another commenter recommended that the appraisal clearly define and list which items are considered as real property and which are considered as personal property.

We agree and the regulation and appendix A have been revised to reflect this suggestion.

Still another commenter suggested the five-year sales history be changed to ten years since the property may not have changed hands in the last five years.

Although we did not change the requirement in the regulation, we point out that its requirements are minimums. If the appraiser or the Agency believes

² The "Uniform Appraisal Standards for Federal Land Acquisitions" is published by the Interagency Land Acquisition Conference. It is a compendium of Federal eminent domain appraisal law, both case and statute, regulations and practices. It is available at <http://www.usdoj.gov/enrd/land-ack/toc.htm> or in soft cover format from the Appraisal Institute at <http://www.appraisalinstitute.org/ecom/publications/default.asp> and select "Legal/Regulatory" or call 888-570-4545.

higher levels of performance are necessary, then the appraisal scope of work should reflect that.

Section 24.103(a)(2)(ii) Appraisal Requirements

A commenter suggested that USPAP compliance would require appraisers to invoke the USPAP Departure Provision to use only the sales comparison approach.

We disagree with this evaluation. At the present time, a State certified or licensed appraiser who is requested by an Agency to provide only the sales comparison approach would, in our opinion, be doing so under the USPAP Jurisdictional Exception Rule, since the Agency's request would be pursuant to the authority granted it under its law and public policy, which is the basis for a USPAP Jurisdictional Exception.

Section 24.103(d) Qualifications of Appraisers and Review Appraisers

One commenter suggested the rule should recognize that appraisal professional organizations' designations provide an indication of an appraiser's abilities.

We have added language to § 24.103(d)(1) and corresponding text to appendix A to emphasize the need for appraisers and review appraisers to be qualified and competent, and that State licensing or certification, and professional designations can help provide an indication of an appraiser's abilities.

Section 24.103(d)(1)

While the majority of the comments on the proposed changes to this section were positive, we did receive several comments that recommended that appraisers and review appraisers be required to be State certified.

Although we have not adopted that suggestion, we recognize the need for appraisers and review appraisers to be qualified and competent, and that State licensing or certification, and professional designations can help provide an indication of an appraiser's abilities. Therefore, we have added certification and licensing to the list of items to be considered by an Agency in determining the qualification of an appraiser (or review appraiser). We also note that some States have specifically excluded certain State Agency appraisers from State licensing/certification requirements.

Section 24.104 Review of Appraisals

For consistency, the term review appraiser is used throughout this rule to refer to the person performing appraisal reviews. We also added language that

will clarify and specify the responsibilities, authorities and expectations associated with appraisal review.

One commenter stated that the NPRM significantly expands appraisal review responsibilities and requirements.

We believe the final rule more accurately elucidates what was commonly assumed to be appraisal review responsibilities and requirements.

A commenter suggested that the final rule should allow administrative reviews performed by appraisers or non-appraisers where the values are less than \$50,000.

We disagree because only a technical review can provide the basis for approving an appraisal for valuation purposes.

There was an objection to the discussion in the first two paragraphs of appendix A as being promotional and self-serving.

This discussion provides information on the concept of appraisal review as it is used by public Agencies and we believe it is necessary.

One commenter said the proposed change to allow the review appraiser to support and approve a different value without any oversight or review is not a good policy. This could result in the review appraiser being pressured to increase or reduce appraised values without oversight.

First, the policy allowing the review appraiser to support and approve a value different from that of the appraisal being reviewed has been part of the preceding rule and is not new. Second, at the Agency's option, the Agency official who establishes the amount believed to be just compensation to be offered to the property owner may be someone other than the review appraiser.

Section 24.104(a) Review Appraisers

Several commenters responded to the three options available for the appraisal review.

One commenter expressed concern for using the term "rejected."

We agree and replaced the term "rejected" proposed in the NPRM with "not accepted." This more clearly reflects that such appraisals, while they may meet others' standards or requirements, do not meet the requirements of this rule and the Agency.

One commenter suggested that the type and level of review should be left to the discretion of the acquiring client Agency.

We agree that the Agency should have some discretion as to the review, and we

believe that is included in the appraisal review provisions. However, we also believe the amount of appraisal review discipline specified in this rule is necessary to assure compliance with the Uniform Act requirement that the offer believed to be just compensation be based on an approved appraisal.

The same commenter also suggested that the rule delete the requirement that all appraisals must be reviewed.

We do not believe we have flexibility under the Uniform Act to make appraisal review optional. The Uniform Act calls for an approved appraisal, which this rule interprets and implements as requiring a technically reviewed appraisal. We note that while the Uniform Act specifically grants authority for waiver of the appraisal, it does not do so for approving an appraisal.

There were two comments saying the appraisal review provisions should be consistent with USPAP. One specifically cited that having the review appraiser approve the appraisal was not consistent with USPAP, and should be changed unless there is a compelling reason to be different.

We believe, first of all, that it is not inconsistent with USPAP for the review appraiser to be requested to approve the appraisal. We believe the requirement for approving the appraisal is within the bounds of USPAP's Standard Rule 3-1(c) where identification of the scope of the (review appraisal) work to be performed is discussed. Second, if there is any question as to consistency, we point out that the requirement for an "approved appraisal" is in the Uniform Act and would appear to qualify as a USPAP Jurisdictional Exception, based on being "law or public policy."

One commenter suggested that the phrase "accepted (but not used)" could raise questions in condemnation litigation as to why a report met "government standards" was not used, perhaps implying the Agency shopped for the value it wanted to get.

The appraisal review report should discuss why one of two or more reports was selected as approved for best supporting an offer believed to be just compensation.

Another commenter stated that references to the review appraiser setting just compensation is inaccurate and should be deleted.

The language in § 24.104 was carefully written to follow the Uniform Act. A staff review appraiser may be authorized to "develop and report the amount believed to be just compensation," not "set" just compensation, which we acknowledge is the purview of the courts.

One commenter raised a concern that the review appraiser should be required to develop an opinion on whether or not the report complies with Standards 1, 2 and 3 of USPAP as well as an opinion of market value.

As we have noted, while this regulation is intended to be consistent with USPAP, it implements the Uniform Act and its requirements only; it is not a vehicle for implementing USPAP.

A commenter suggested that the owner be offered the opportunity to accompany the review appraiser on the inspection of the property.

An on-site inspection by the review appraiser is not a specific requirement of these regulations, so inviting the property owner would be inappropriate. The necessity of an onsite inspection by the review appraiser depends on the appraisal problem, the appraisal(s), and Agency policy.

One commenter asked what was the background of accepted, approved and rejected.

The three appraisal review results options specified reflect the results that were always needed, but never specifically cited. They are directly related to the needs of the acquisition process specified in the Uniform Act. Additional language has been added to appendix A to further clarify that process.

Section 24.104(b) Review of Appraisals

One commenter expressed the position that it is not good policy to allow the review appraiser, as part of the appraisal review process, to develop independent valuation information if he/she could not approve any submitted appraisal. Concern was expressed that there was potential for undue coercion to be exerted on the review appraiser without oversight.

We believe that newly introduced provisions to enhance appraiser and review appraiser independence will mitigate this risk. We point out that the provisions allowing the review appraiser to develop an independent valuation are carried over from the previous rule.

Section 24.104(c) Written Report

One commenter requested clarification that only a duly authorized Agency staff person can make the approved appraisal decision, because Agencies sometimes mistakenly believe they have no choice but to accept the review appraiser's conclusion.

This is clarified in the final rule.

Another commenter asked if an appraisal report which has had its value conclusion modified in some fashion

during review, maintains its status as approved.

This would come into play primarily when, subsequent to submission by a fee appraiser, the reviewer modifies the recommended (or approved) amount due to a plan revision or other similar reason. For the purposes of the Uniform Act and this regulation, the review appraiser could adjust the recommended or approved amount to reflect changes without voiding the acceptance of the reviewed appraisal report, if those changes are not so substantial as to change the appraisal problem.

Still another commenter asked whether the requirement that any damages or benefits to any remaining property be identified in the review appraiser's report is to be just a simple allocation between damages and benefits or whether discussion is implied.

The requirement is to "identify" any damages or benefits. Therefore, if some discussion may be needed to explain an allocation, such discussion should be included, too, but is not explicitly required.

Two commenters objected to authorizing the review appraiser to determine the amount believed to be just compensation, opining that is a management determination.

We agree it is a management determination, but it is also appropriate to give management the option of delegating this responsibility to a staff review appraiser.

Section 24.105 Acquisition of Tenant-Owned Improvements.

One commenter stated that some tenant-owned improvements or modifications made to accommodate a tenant's disability or the disability of a household member, such as ramps, may have no market value or salvage value because they are of limited use to anyone but the tenant who installed them. In such situations, the regulations should require that the household be compensated for the replacement value of the improvements.

We did not change the provision in § 24.105 for such a situation because the residential occupant would be "made whole" through relocation assistance provisions of this regulation.

Section 24.106 Expenses Incidental to Transfer of Title to the Agency

One commenter stated that we should add a new paragraph describing "other related costs incurred", solely as a result of transfer of real property to the Agency. The regulation can allow only those expenses specified by the Uniform

Act, section 303, therefore, this change was not made.

Subpart C—General Relocation Requirements

Section 24.202 Applicability

One commenter suggested we change the word "benefits" to "entitlements." We feel that since the word "assistance" is used throughout the Uniform Act that we will change the word "benefits", when feasible, to "assistance" to be more in line with the language used in the Uniform Act. The Uniform Act program is not an entitlement program but rather a reimbursement program to assist in relocating to a new site.

Section 24.203(b) Notice of Relocation Eligibility

One commenter requested that we further define "promptly" in § 24.203(b), suggesting that it refers to the prompt notification of all occupants/tenants after the initiations of negotiations and, therefore, should be defined to not exceed 7 calendar days or perhaps up to 10 calendar days at most. We consider promptly meaning "as soon as practicable" and do not believe that further elaboration is necessary. Displacing Agencies may wish to further define the term in their operational procedures. (The FHWA has issued guidance in the past to the State Highway Agencies suggesting that, as used in this section, "promptly" means 7 to 10 days).

Section 24.203(d) Notice of Intent to Acquire

The NPRM proposed moving the definition of notice of intent to acquire from the "Definitions" section to the "Notices" section of the regulations. The intent was to group all relocation notices in one place for consistency. A minor revision in wording for clarity was also proposed. No change in the meaning of the term was intended.

We received four comments on this proposed change. One commenter proposed alternative wording for the term that has not been adopted. Three commenters expressed confusion over the intent of this term, therefore, further explanation is warranted here.

The notice of intent to acquire is one of three actions (the other two being initiation of negotiations for acquisition, and actual acquisition) that can establish a person's eligibility for relocation assistance (see § 24.2(a)(9)(i)(A)). Unlike the other notices described in § 24.203, a notice of intent to acquire is not mandatory. As was noted when the 1989 final rule was issued (54 FR 8916), its purpose "is to

clearly establish a displaced person's eligibility for relocation benefits. However, it should be understood that the absence of such a notice does not deprive the person of eligibility for relocation benefits."

A notice of intent to acquire may be used to establish a person's eligibility for relocation assistance prior to the initiations of negotiations and sometimes prior to commitment of Federal-financial assistance. A notice of intent to acquire is a means by which displacing Agencies may establish a person's relocation eligibility in advance of the typical acquisition and relocation process in order to conduct orderly relocation, minimize adverse impacts on displaced persons and to expedite project advancement and completion.

One commenter suggested that the notice of intent to acquire could be confused with the "notice to owner" found in § 24.102(b). A notice to owner is merely an Agency's notice informing the owner of the Agency's interest in acquiring the property; it is not a commitment and does not establish relocation eligibility. Whereas a notice of intent to acquire is an Agency's written notice provided to a person to be displaced; it is a commitment and clearly establishes relocation eligibility in advance of the normal acquisition and relocation process.

One commenter was uncertain as to the relationship between the notice of intent to acquire, and the notice of relocation eligibility, described in § 24.203(b). While the notice of intent to acquire is one of three possible actions that establish eligibility for relocation assistance, the notice of relocation eligibility is a mandatory notice that notifies persons when they become eligible for relocation assistance. For greater clarity and consistency we have added references to the notice of intent to acquire and actual acquisition in § 24.203(b) to make it clear that the notice of relocation eligibility must be provided after whichever Agency action first triggers a person's eligibility for relocation assistance.

Section 24.204(b)(1) Disaster Relief Act and Section 24.204(c) Basic Conditions of Emergency Move

For clarity, we have updated the citation to the Robert Stafford Disaster and Emergency Assistance Relief Act, as amended, (42 U.S.C. 5122) in § 24.204(b)(1). We have also added a reference to "displacement dwelling" in § 24.204(c) to emphasize that we are referring to relocations from such dwellings.

Section 24.205 Relocation Planning, Advisory Services, and Coordination

One commenter asked whether changes in § 24.205 were intended to preclude so-called “global settlements.” Another comment, focusing primarily on § 24.207(f) (which prohibits Agencies from requesting that displaced persons waive relocation benefits), recommended that the regulation would preclude the use of such settlements. The comment described “global settlements” as “the packaging of relocation entitlements (in some cases moving, mortgage interest, price differential, etc.) with the fair market value to reach an administrative settlement of the acquisition.”

The changes to § 24.205 are not intended to reflect “global settlements.” We do not believe that such settlements are consistent with the requirements of the Uniform Act or this part.

The Uniform Act and this part require that relocation payments be determined in accordance with specific fact based criteria. For example, a homeowner’s replacement housing payment shall be based on the “amount, if any” that must be added to “the acquisition cost of the dwelling acquired” to equal the reasonable cost of a comparable dwelling. It is therefore impossible to accurately determine the amount of a displaced homeowner’s replacement housing payment until the actual acquisition cost of the acquired dwelling is established. Furthermore, a replacement housing payment can only be made to a displaced homeowner if the homeowner purchases and occupies a decent safe and sanitary replacement dwelling within one year after he or she receives final payment for the acquired dwelling. Accordingly, under the Uniform Act and this part, a homeowner’s replacement housing payment cannot be determined until the actual acquisition cost is known.

In addition, actual reasonable moving expenses often cannot be determined until after the move has been completed. Relocation benefits provided under the Uniform Act and this part must be determined in accordance with the applicable requirements contained therein, and any “settlement”, related to relocation benefits, that does not do so would not be consistent with statutory and regulatory requirements.

Both §§ 24.205 and 24.207(f) are drafted to ensure that displaced persons are fully advised of all relocation assistance benefits that are available to them, and that a displaced person is offered all the assistance and benefits for which he or she is eligible. This

applies to both residential and nonresidential displacements.

Section 24.205(c)(2)(i)(A–F) General Planning

We received eleven comments on the proposed requirement for obtaining information from the displaced business owners concerning a business’s needs during the relocation process to enable the acquiring Agency to assist the business in successfully relocating to a replacement site. Most were in favor of the new informational requirements. Three commenters expressed concerns, stating that their planning process was undertaken early, during the early environmental studies, and that the information would be obsolete prior to the actual relocation process.

We included this requirement so that the interviews, where the six informational items are to be obtained, are conducted during the advisory assistance process. This process is to be undertaken when relocation can be expected to begin within a short interval of time.

One commenter was concerned that some business owners employed legal counsel that advised the businesses not to provide any information to the displacing Agency. In such cases, acquiring Agencies should explain to business owners that the intent of the interview questions is to obtain data that will enable the Agency to better assist the displaced business, and that the Agency is required to seek such information by a Federal regulation implementing the Uniform Act.

Section 24.205(c)(2)(i)(C)

We received two comments recommending we change the wording in § 24.205(c)(2)(i)(C) concerning the resolution of personalty/realty issues, in order that the provision apply to all businesses not just tenant businesses. We agree with the recommendation and have removed “tenant” from § 24.205(c)(2)(i)(C).

We received six comments to the proposed change to § 24.205(c)(2)(i)(C), concerning identification and resolution of realty/personalty items prior to an appraisal of the property.

All commenters agreed that this is a problem area and that a change is needed. However, all commenters shared a common concern, that requiring resolution prior to the appraisal of the property is sometimes not possible.

One commenter suggested “should” be used in place of “must.” Several commenters reminded us that most Agencies are aware of the problem and make every effort to identify and resolve

these issues as early as possible, but that sometimes it is not possible given the reluctance of tenants and owners to cooperate.

We received many comments from the public prior to the NPRM requesting a stronger position be taken on resolving realty/personalty issues early in the process. However, we recognize the valid concerns reflected in the comments and, therefore, have changed § 24.205(c)(2)(i)(C) to provide that “every effort must be made” to identify and resolve realty/personalty issues prior to “or at the time of” the appraisal.

Section 24.205(c)(2)(i)(E)

We received three comments on § 24.205(c)(2)(i)(E) which proposed that interviews with displaced business owners include an estimate of a business searching expense payment based on the estimated difficulty in locating a replacement site. The comments questioned the purpose of obtaining an estimate of searching expenses and asked whether the acquiring Agency or the business owner should prepare it.

There are two general purposes for this provision. The first is to generate a discussion of the anticipated problems faced by the business to enable the acquiring Agency to determine the time required for the move; and, second, to factor in the time and costs of investigating a replacement site. These costs include those necessary to obtain permits, attend zoning hearings and negotiate the purchase of a replacement site. Our primary intent was to identify problems in locating a replacement site. For clarity, and in response to the comments, we have deleted the requirement that an estimate of the searching expense payment be provided.

Section 24.205(c)(2)(ii)

Several commenters noted the incorrect placement of a sentence concerning business interviews within the residential portion of this section of the regulations, at the end of § 24.205(c)(2)(ii). This sentence was erroneously repeated from the preceding business interview discussion, and has been deleted from the final rule.

One commenter recommended that the regulations provide that reasonable accommodations be made for disabled displaced persons in the interview process and with regard to transportation. The NPRM did not propose any changes in this area and we believe none are necessary. Agencies must make every effort to provide reasonable accommodations for all displaced persons, including the

disabled, in order to minimize any adverse impacts. This is not a new requirement; it is a fundamental principle of relocation advisory services. As such, no additional changes were adopted.

Section 24.205(c)(2)(ii)(D)

We received 12 comments regarding the proposal that an Agency, which has a program objective of providing minority persons with an opportunity to relocate outside of areas of minority concentration, may determine to provide a reasonable and justifiable increase in the payment to facilitate such a move. Every comment disagreed with the addition of this flexibility for various reasons, many because it was perceived as a mandate to provide additional payments rather than an option based on an Agency's program goals. Based on further consideration, and in response to the comments, we removed this language from the final rule.

Section 24.205(c)(2)(ii)(E)

We received six comments on § 24.205(c)(2)(ii)(E), which concerns transportation to inspect replacement housing. One commenter suggested that such transportation should be "need based" for only certain individuals, such as those with health limitations or disabilities. Another commenter wanted to add the wording "as appropriate." Still another commenter wanted the decision to provide this transportation to be at the discretion of the Agency.

The requirement to offer transportation to all displaced persons is not new. A minor clarification was proposed to emphasize that all displaced persons are entitled to such transportation. It has been our experience that most people will provide their own transportation, but in fairness to all, transportation shall be offered to all displaced persons equally.

One commenter voiced concern about government liability in transporting non-government persons, and suggested designating other forms of transportation. We purposely did not designate a mode of transportation. It is the responsibility of the Agency to decide how they will transport a displaced person. If liability is a concern, there are other means of transportation available such as a taxicab or rental car.

Section 24.206 Eviction for Cause

See the explanation under Subpart A, definitions, § 24.2(a)(12), in this preamble.

Section 24.207(f) Waiver of Benefits

We received 17 comments on § 24.207(f), which provides that displacing Agencies shall not propose or request that a displaced person waive his or her relocation benefits. This section complements §§ 24.205(c) and 24.203(a), (b) and (c) which describe the information and notices that must be provided to persons prior to displacement.

The comments were virtually unanimous in support of § 24.207(f). However, it appears that a few commenters did not fully understand this provision. As we noted in the preamble to the NPRM (68 FR 70348–70349), because the Uniform Act imposes requirements on displacing Agencies to provide relocation assistance, a person to be displaced cannot relieve an Agency from the Uniform Act's requirements by agreeing to waive his or her relocation assistance and benefits.

Appendix A, § 24.207(f), provides that a person, after they have been fully advised of all relocation payments and assistance to which they are entitled, may, in a written statement, choose not to accept some or all of such benefits. In the unlikely event that a person simply refuses to accept some or all payments and assistance, and refuses to provide any written statement to that affect, the Agency should document such refusal in writing.

We have made two minor changes to § 24.207(f) in response to comments. We have inserted "No" as the first word of the section's title, to emphasize that this provision is not intended to encourage any waiver of benefits. We have also changed the phrase "relocation assistance and payments provided by the Uniform Act," to "relocation assistance and benefits provided by the Uniform Act," to avoid any implication that this section would apply to payments for the acquisition of real property, which are addressed in detail in subpart B.

Section 24.207(g) Expenditure of Payments

We received five comments on proposed § 24.207(g). These generally requested minor editorial changes or further clarification. This section expresses longstanding practice and understanding by stating that relocation payments provided to a displaced person are not "Federal financial assistance" for purposes of this part, and therefore, their expenditure is not subject to the Uniform Act. In response to the comments received minor

changes have been made to improve clarity.

Subpart D—Payments for Moving and Related Expenses

Section 24.301(b) Moves From a Dwelling

We received 13 comments on § 24.301(b), moving from a dwelling. Most of the commenters were unclear on what is meant by the phrase "but not by the lower of two bids or estimates" in § 24.301(b). It has long been our position that a residential displaced person cannot be paid for a self-move based on the lower of two bids or estimates. This has always been a moving option reserved for businesses. There are only three types of moving options available for residential moves, that are described in §§ 24.301(b)(1) and (2)(i) and (ii). After careful consideration of the comments we agree that the proposed language in § 24.301(b) could be misunderstood and have made changes to better clarify that a residential self-move cannot be based on the lower of two bids or estimates.

Two commenters questioned why we allow an actual cost move, supported by receipted bills, to equal the hourly rate that a commercial mover would receive. In response to that, the rate a commercial mover would pay is only there as a comparison, to ensure that the rate charged is not excessive. The rate may be less than the prevailing commercial rate.

One commenter suggested that we make it clear that the hourly rate for equipment rental be based on the actual cost of the equipment rental, but not exceed the cost a commercial mover would charge. We agree and have added language to §§ 24.301(b)(2)(ii) and 24.301(d)(2)(ii) to reflect this clarification.

Section 24.301(b)(2)(iii) and (c)(2)(iii) Moving Cost Finding

We received 20 comments on the proposed new method of moving personal property that would allow a qualified Agency staff person to estimate and determine the cost of a small uncomplicated personal property move up to \$3,000, with the informed consent of the displaced person (NPRM § 24.301(b)(2)(iii).)

The comments varied from those who supported the proposal to those who opposed it. Others found it confusing and questioned the legality of our actions. Six commenters requested we increase the amount anywhere from \$5,000 to \$10,000 with one commenter suggesting the amount be set individually by each State. Four

commenters requested additional explanation as to what determines a “qualified” staff person and two commenters questioned the legality of such a move indicating that there is no statutory support for creating a different type of move.

One commenter suggested we tie the amount to a meaningful index to be evaluated periodically similar to the Fixed Residential Moving Costs Schedule and one commenter requested an explanation of how we arrived at \$3,000.

This proposed change was intended to provide greater flexibility. However, because of the apparent misunderstanding of the purpose of the proposal, and the range of confusion and concern expressed, we have decided not to adopt this proposal.

Section 24.301(d) Moves From a Business, Farm or Nonprofit organization

One commenter brought to our attention that we had inadvertently left out actual cost moves as one of the options for business moves. We agree and thank the commenter for bringing it to our attention. We have added it back in the regulations as part of § 24.301(d)(2)(ii).

Two commenters requested additional information on hourly rates. We feel hourly rates are adequately explained in Actual Cost Self-Move.

Section 24.301(d)(2) Self-Move

One commenter objected to the elimination of “qualified staff” to estimate actual, reasonable moving expenses, especially in low-cost uncomplicated moves. While we recognize that it is sometimes difficult to receive an accurate estimate from a professional mover, the use of such an estimate, wherever possible, is valuable in establishing accuracy. We understand that occasionally it is necessary to consult trade associations representing specialty movers on a case-by-case basis. As a result, we did not make any changes to the rule.

Section 24.301(e) Personal Property Only

We received seven comments concerning the new paragraph on personal property, § 24.301(e). All were positive comments, however, four commenters requested additional explanation of what is covered by the new paragraph. The four commenters were concerned that, as proposed, § 24.301(e), personal property, would be limited to eligible expenses as described in § 24.301(g)(1) through (g)(7) and not be eligible for expenses in § 24.301(g)(8)

through (g)(18). Thus, in effect eliminating the use of actual direct loss of tangible personal property, substitute personal property, searching expense, and other normally eligible business expenses.

As explained in the preamble to the NPRM, this provision was only intended to be used for moving personal property from property acquired for a Federal or federally-assisted project, where there was no need for a full relocation of a residence, business, farm or nonprofit organization. It was not intended to cover the eligible moving items in § 24.301(g)(8) through (g)(18). However, upon further consideration, eligibility for payment based on § 24.301(g)(18) Low Value/High Bulk is determined to be appropriate for inclusion in a personal property only move. As such, we have revised this section of the regulations to include § 24.301(g)(18) as an eligible actual moving expense as part of a nonresidential personal property only move.

It should also be noted that personal property only moves do not trigger eligibility for reestablishment expense payments, nor are they eligible for actual moving expense payments under § 24.301(g)(8) through (g)(17).

For moving options and examples of the types of personal property only relocations, see appendix A, § 24.301(e).

Section 24.301(g)(3) Eligible Moving Expenses

We received 19 comments regarding compliance with code requirements at the replacement site of a small business, farm or nonprofit organization. The commenters requested that we consider moving more criteria from § 24.304 to either §§ 24.301 or 24.303.

Nine of the commenters urged moving the provision providing payments for “repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance” from the reestablishment expense § 24.304, which provides a reestablishment payment not to exceed \$10,000, to § 24.303, where the reimbursement provision is not limited. Four commenters suggested that we should move additional criteria from § 24.304 to other sections that provide payment for actual, reasonable and necessary expenses.

We do not believe these suggestions are appropriate since we believe actual moving cost expenses for businesses should be limited to personal property items, while expenses for improving business real property should be reimbursed under reestablishment provisions of § 24.304. However, we

note that three provisions which were formerly under reestablishment limitations, and which do not fall within the category of realty or personalty, have been moved to revised § 24.303, and can be considered for reimbursement without a defined dollar limitation.

Four commenters requested further clarification of the reference to modifications of personal property in § 24.301(g)(3). To clarify, the provision for displaced businesses, permitting modifications to the personal property within the replacement structure, provides payment for costs necessary to adapt personal property to the replacement site, and includes modifications mandated by Federal, State or local law, code, or ordinance. This includes circumstances when such property and equipment was “grandfathered” in the displacement structure, but changes or upgrading of the personalty is required by the Americans with Disabilities Act (ADA), the Occupational Safety and Health Administration (OSHA), other Federal laws, State or local law, code or ordinances at the replacement site. The modifications authorized for reimbursement 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. Finally, the expenditures for authorized modifications must be reasonable and necessary.

Two commenters were concerned that we may have gone too far in moving some items from §§ 24.304 to 24.303, instead suggesting that more attention should be given to the level of service provided to businesses as proposed in § 24.205. Their concern is that it is questionable whether having no cost limits will always improve the percentage of successful business relocations. We considered their concern but have elected to make the proposed changes.

To further clarify § 24.301(g)(3) we have restructured the existing wording to distinguish residential and nonresidential items and added a reference to Federal, State or local law, code or ordinance.

Section 24.301(g)(12)

We received one comment recommending that § 24.301(g)(12) further define the limits of eligible fees for professional services. The commenter recommended that such eligible fees be limited to fees related to actually moving the personal property, and not include fees related to

conceptual building or site layouts intended for construction/reconstruction at the replacement property.

No changes have been made to this section. The professional services described in this section only include those that are directly related to moving personal property. Conceptual building or site layouts intended for construction/reconstruction at the replacement property are not considered eligible expenses under this section. Professional services related to these types of expenses may be considered eligible expenses under § 24.303(b), related nonresidential eligible expenses, if the Agency determines them to be actual, reasonable and necessary.

Section 24.301(g)(14) and (g)(14)(i)

We received 13 comments recommending that we clarify § 24.301(g)(14) relating to the actual direct loss of tangible personal property. In particular commenters expressed confusion about the meaning of the phrase “value in place as is for continued use,” with two comments suggesting that the regulation include a definition of an appraisal method to estimate this in-place value. Two comments requested clarification as to whether reconnect charges should be included with the estimated moving cost.

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. We have modified Appendix A, § 24.301(g)(14) to clarify the correct value considerations to estimate in-place value. Generally, an item will be valued based on the current cost of the item as installed on the displacement site, and depreciated to reflect the current condition and estimated remaining useful life. Standard professional personal property appraisal methods would be acceptable. The in-place value at its “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 operable 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 reconnect costs may not include costs to meet code or other requirements that would only 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.

We believe that the provision proposed in the NPRM, as further explained in appendix A, is correct and consistent with this intent of the Uniform Act, to provide moving benefits that are actual, reasonable and necessary. Therefore, we have included this provision in the final rule.

Section 24.301(g)(17)

We received twelve comments concerning § 24.301(g)(17), which proposed raising the searching expense limit from \$1,000 to \$2,500. One commenter was not in favor of the increase. Other commenters wanted a greater increase on the allowable limit, no limitation, or urged that it be indexed. The remaining commenters expressed agreement with the increase and/or sought clarifications.

Two commenters asked whether the actual fees assessed for permits are payable under § 24.301(g)(17)(v). This provision includes the actual time and effort required to obtain permits and to attend zoning hearings, not the assessed fees for the permits.

Section 24.301(g)(17) also includes the time spent in negotiating the purchase of a replacement business site based on a reasonable salary or earnings rate. We have added paragraph (g)(17)(vi) to provide for these expenses. In addition, fees necessary in obtaining such permits are eligible costs but should be based on a pre-approved hourly rate that is reasonable and necessary.

Section 24.301(g)(18)

We received ten comments on § 24.301(g)(18) concerning low value/high bulk personal property. Most comments concerned basing the moving payments on the lesser of the amount received if sold, and the replacement cost at the new location of the business. Two commenters stated that a determination as to whether items should be moved should be a joint decision between business operator and the displacing Agency.

We have adopted the proposed language providing for payment of the lesser of the described amounts. We believe that the business owner should be permitted to make the decision on whether the material is to be moved to the new business location. However, the amount of the reimbursement in the move cost should be limited to that set

forth in the final rule. Also, there was concern that the items listed in the last sentence of § 24.301(g)(18) are the only items that can be moved under this provision. However, that was not the intent. The items listed are only examples and there certainly can be other items that qualify under this provision. We have made a minor clarification to address this concern.

Section 24.301(h)(12)

We received six comments on § 24.301(h)(12). Two commenters objected to listing refundable security and utility deposits as ineligible moving expenses. While a good argument might be made for providing reimbursement for these expenses, the Uniform Act provides no authority for their reimbursement and we therefore cannot include them in the regulatory description of “actual, reasonable moving expenses,” without a legislative change. The fact that they are refundable would remove them from eligibility.

Section 24.302 Fixed Payment For Moving Expenses—Residential Moves

We received one comment on the proposed changes to § 24.302, Fixed Residential Moving Cost Schedule (FRMCS). The commenter requested that the amounts be updated annually or biannually. The same commenter requested that the amount be increased to be more in line with what a professional commercial mover would receive.

The purpose of the FRMCS is not to be in competition with professional commercial movers, but rather to offer an option to the commercial move. There are currently three methods to move personal property from a dwelling; a professional commercial mover, the fixed residential moving cost schedule, or an actual cost move based on receipted bills (*See* § 24.301(b).) The Fixed Residential Moving Cost Schedule is updated every three years. The language in the final rule will remain as proposed in the NPRM.

Section 24.303(b) Related Nonresidential Eligible Expenses

We received 7 comments requesting further clarification of eligible professional services mentioned in § 24.303(b). There was confusion as to whether professional services included attorneys’ fees and other professional services relating to costs of negotiating to acquire property, closing costs, etc.

Generally, professional services performed prior to the purchase or lease of a replacement site, to determine its suitability for the displaced person’s

business operation, would be eligible for reimbursement; provided the Agency determines that they are actual, reasonable and necessary. Such professional services include, but are not limited to, soil testing, feasibility and marketing studies, and may be based on a pre-approved hourly rate. Fees and commissions directly related to the purchase or lease of the site, such as realtor commissions or finder's fees are ineligible for reimbursement.

Moving expenses for businesses sometimes include the cost of obtaining outside professional services made necessary only by the relocation. For example, attorneys' fees for representation before zoning authorities, or the cost of obtaining a soil analysis necessary in the preparation of a replacement site are directly related to relocation, and may be considered eligible expenses. By contrast, if these services are provided by regular employees of the displaced business, (such as staff engineers,) or professional contractors ordinarily used by the business for its everyday operations (such as legal counsel on retainer), these services are considered ordinary costs of doing business, and cannot be recognized among eligible moving expenses.

One commenter suggested we revise the wording in this section for clarity. We concur and have made some minor modifications.

Section 24.304 Reestablishment Expenses—Nonresidential Moves

Three comments suggested that § 24.303 be expanded to include costs necessary to satisfy requirements of Federal, State or local law, code or ordinance, including the Americans with Disabilities Act (ADA). In the NPRM we considered such costs to be among those listed as reestablishment expenses in § 24.304(a). As mentioned above, reestablishment expenses are, by statute, available to displaced farms, nonprofits, and small businesses, and are limited to \$10,000.

In the NPRM we proposed increasing assistance to businesses and farms by changing some of the costs that had been considered to be reestablishment expenses, to actual reasonable moving expenses, which are not subject to the \$10,000 cap. However, the proposed changes only included those costs that were unrelated to improvements to the replacement site. Costs related to improving the replacement real property were more clearly considered to be "reestablishment expenses," and accordingly, were retained in § 24.304.

We continue to believe that this approach provides the most reasonable

interpretation of the Uniform Act's requirements and, therefore, in the final rule we have left costs of repairs or improvements to the replacement real property, required by Federal, State or local law or codes, in § 24.304, as reestablishment expenses.

Section 24.304(a)(2)

We received one comment pointing out that § 24.304(a)(2), which concerns necessary modifications to the replacement property, seems to apply to existing buildings which are purchased or leased and must be renovated to some extent, and asked if this section applied to new construction.

The cost of constructing a new business building on the vacant replacement property is considered a capital expenditure and, as provided in § 24.304(b)(1), is generally ineligible for reimbursement as a reestablishment expense. In those rare instances when a business cannot relocate without construction of a replacement structure, a displacing Agency may request a waiver from the funding Agency of § 24.304(b)(1) under the provisions of 49 CFR part 24.7.

Subpart E—Replacement Housing Payments

Section 24.401(a) Eligibility

One commenter assumed that appendix A is not regulatory. This is not accurate. Appendix A is an integral part of the regulation, and, while it does not impose mandatory requirements, it does provide important additional guidance and information concerning the purpose and intent of a number of the provisions in part 24.

Section 24.401(e) Incidental Expenses

One commenter suggested that the payment of actual reasonable expenses incidental to the purchase of a replacement dwelling, described in § 24.401(e), would be simplified by providing a single payment for a displaced homeowner's actual closing costs up to a fixed amount, such as \$3,000. While this suggestion might simplify the computation of this component of the replacement housing payment, it was not proposed for public comment in the NPRM and, therefore, it is outside the scope of this rulemaking. However, this suggestion could be addressed in a future rulemaking effort to update 49 CFR part 24.

Section 24.401(f) Rental Assistance for 180-day Homeowner

We received nine comments on the change in proposed in § 24.401(f) that would allow a rental assistance payment for a displaced 180-day homeowner

(who elects to rent instead of purchase a replacement dwelling) to exceed \$5,250 if the difference in the estimated market rent of the acquired dwelling and the rent for a comparable replacement dwelling support a higher figure. The NPRM also proposed that the rental supplemental payment not be allowed to exceed the amount the 180-day homeowner would have received as a housing (purchase) supplemental payment under § 24.401(b).

Three of the nine commenters suggested clarification as to the maximum amount of assistance to which the displaced 180-day homeowner is entitled. In response, we have made several minor changes to this section. The rental assistance payment cannot exceed the amount the 180-day homeowner would have received under § 24.401(b)(1) (see also § 24.401(c)) which describes how that amount is determined. The payment cannot include costs for expenses under §§ 24.401(b)(2) and (3) (also see §§ 24.401(d) and (e)) as it is not possible to calculate what the 180-day homeowner who rents would have received for increased mortgage interest costs and incidental costs if the person does not actually purchase a replacement dwelling.

Section 24.402(b)(2) Base Monthly Rental for Replacement Dwelling

We received 23 comments on the proposed change in § 24.402(b)(2) that reflects more closely the statutory requirement that only a low-income displaced person's income shall be taken into consideration when calculating rental assistance payments for a comparable replacement dwelling (42 U.S.C. 4624(a)). We have adopted this change in the final rule and it is more in line with the intent of the Uniform Act in that it assures consideration of income for low-income persons. The procedures in § 24.402(b)(2)(ii) will continue to use 30 percent of monthly gross household income, but only for displaced persons who qualify as low income under the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits.³

Of the 23 comments, thirteen strongly favored the change; five expressed concern about increased administrative burden; three commenters requested that we drop the 30 percent altogether; one expressed concern that the change would deny replacement housing

³ A link to the applicable URA Low Income Limit is available on FHWA's Web site at the following URL: <http://www.fhwa.dot.gov/realestate/uau/ualic.htm>.

assistance to tenants; and one commenter pointed out that there would be variations of income by county and State.

We have carefully considered each comment and for the following reasons, we have adopted the proposed change in the final rule. Regarding the increased administrative burden, we have requested several of our field offices to use the HUD Annual Survey of Income Limits and find it relatively user friendly. The initial attempt, as in any new procedure, was awkward, but additional tests became increasingly easier. The request to drop the 30 percent requirement completely would not be in compliance with the Uniform Act, as noted above. The concern by one commenter that the change would eliminate those who are most in need of the assistance is incorrect. We believe that we would be reaching out specifically to those who are truly in need of additional assistance. Those tenants that do not fall into the low-income category will be offered a comparable dwelling based on a rent-to-rent comparison.

Section 24.402(c) Downpayment Assistance Payment

We received eight comments on the proposed change in the criteria to receive a downpayment. Four commenters expressed support for the proposed change to the discussion of § 24.402(c) in appendix A. The proposal would remove language that indicated that an Agency should limit the amount of downpayment assistance to an amount ordinarily required for conventional loan financing. The proposed change allows a displaced person to apply the full amount of the rental replacement housing payment as a downpayment towards the purchase price of the replacement dwelling and related incidental expenses, regardless of any limitation on what is ordinarily required for conventional loan financing. No negative responses were received and the change has been adopted.

Two commenters stated that § 24.404(c)(1)(viii), (concerning possible differences between a rental assistance payment and a downpayment when providing housing of last resort) was inconsistent with the proposed change to appendix A, § 24.402(c), described above. We agree and, accordingly, have deleted § 24.404(c)(1)(viii).

Section 24.403(a) Determining Cost of Comparable Replacement Dwelling

The NPRM proposed that the homeowner's replacement housing payment be broadened to include any

increase in real property taxes at the replacement dwelling during the first two years of ownership. We received 31 widely varying comments on this proposal. Nine comments opposed the proposed change. Six comments supported the proposal. Eleven comments supported the concept, but either disagreed with the details of the proposal, or also wanted to include any increases in such costs as insurance, utilities and homeowner's association fees. The remaining comments asked for clarification or expressed no opinion.

Comments that opposed the proposal mentioned such factors as; the addition of substantial administrative burdens, with relatively little benefit; the difficulty in factoring in various State or local provisions that grant property tax relief based on age, income, disability or other factors; and the view that an increase in real property taxes is not really part of the "cost" of the replacement dwelling for purposes of the Uniform Act.

We have carefully considered the comments and have decided not to adopt this proposed change. Our decision is based primarily on the general administrative burdens mentioned in the comments, as well as on the difficulty, suggested in the comments, of trying to develop a reasonably equitable and manageable system for providing short term compensation for property tax increases. We believe that it would be difficult for such a system to easily take into account the variable and inconsistent nature of such taxes resulting from provisions of State and local law that often provide reduced taxes in certain circumstances or to certain groups. Our decision was also influenced by the lack of any clear indication in the Uniform Act that real property taxes were intended to be included as part of the cost of a comparable dwelling.

Not including this proposal in the final rule does not affect the ability of any displacing Agency to compensate displaced homeowners for increased property taxes and similar costs if otherwise authorized to do so.

Section 24.403(a)(1)

The NPRM proposed removing the requirement that Agencies adjust the asking price of comparable replacement dwellings in computing a homeowner's replacement housing payment. That adjustment was considered burdensome for displacing Agencies, as well as for displaced homeowners by, in effect, forcing the homeowner to negotiate for a price lower than the asking price when purchasing a replacement dwelling.

We received 14 comments on this proposal. Ten supported it, and three asked for some further clarification. One commenter requested the right to continue adjusting the comparable. We have adopted the proposal without change. Accordingly, since the requirement to adjust asking prices has been deleted from the rule, there is no longer any authority or basis for Agencies operating under the Uniform Act to make such adjustments (which would reduce the amount of the homeowner's replacement housing payment). Displacing Agencies must now use the asking price of a comparable dwelling in computing the replacement housing payment.

Section 24.403(a)(6)

In the NPRM, we proposed to include language in § 24.2(a)(6)(viii) that would have allowed rent owed to an Agency to be taken into account when determining whether a comparable replacement dwelling is within a displaced person's financial means. Because we received a comment objecting to similar language in § 24.2(a)(6)(viii), we have decided to remove this language from both 24.403(a)(6) and § 24.2(a)(6)(viii).

Subpart F—Mobile Homes

Sections 24.501 through 24.502

We received seven comments on Subpart F, Mobile Homes, concerning clarifications of §§ 24.501 and 24.502. Four commenters identified incorrect wording in §§ 24.502(a)(1)(iii) and 24.502(b)(2). The error concerned the replacement housing payment eligibility computation for an eligible homeowner that is displaced from his/her mobile home. We agree that the wording did not accurately transpose in formatting the NPRM and the error has been corrected in §§ 24.502(a)(1)(iii) and 24.502(b)(2).

Two commenters suggested a simplification of the terms describing a displaced homeowners application of a rental assistance payment and concerning a homeowner who is not displaced from their mobile home. After reviewing these provisions we have determined that they are clear as proposed in the NPRM; however, to further clarify the comparable replacement home site we have moved the existing §§ 24.502(d) to 24.502(b)(3).

Distributions Tables

For ease of reference, distribution and derivation tables are provided for the current sections and the proposed sections as follows:

DERIVATION TABLE		DERIVATION TABLE—Continued		DERIVATION TABLE—Continued	
New section	Old section	New section	Old section	New section	Old section
24.1	24.1.	24.101(b)(5)	24.101(a)(5).	24.303(b)	24.304(a)(7) and (a)(9).
24.2(a)(1)	24.2 Agency.	24.101(c)	24.101(b).	24.303(c)	24.304(a)(11).
24.2(a)(2)	24.2 Alien not lawfully present in the United States.	24.101(d)	24.101(c).	24.304(a)(4)	24.304(a)(5).
24.2(a)(3)	24.2 Appraisal.	24.102(c)(1)	24.102(c).	24.304(a)(5)	24.304(a)(8).
24.2(a)(4)	24.2 Business.	24.102(n)	24.103(e).	24.304(a)(6)	24.304(a)(10).
24.2(a)(5)	24.2 Citizen.	24.103(a)(1)	24.103(a)(2).	24.304(a)(7)	24.304(a)(12).
24.2(a)(6)	24.2 Comparable replacement dwelling.	24.103(a)(2)	24.103(a)(3).	24.305	24.306.
24.2(a)(6)(i) through (vii).	24.2 Comparable replacement dwelling (1) through (7).	24.103(a)(3)	24.103(a)(4).	24.305(b)(1) through (4).	24.306 (b)(1) through (4).
24.2(a)(6)(viii)(A) through (C).	24.2 Comparable replacement dwelling (8)(i) through (iii).	24.103(a)(4)	24.103(a)(5).	24.305(c) through (e)	24.306 (c) through (e).
24.2(a)(6)(ix)	None.	24.103(a)(5)	24.103(a)(6).	24.306	24.307.
24.2(a)(7)	24.2 Contribute materially.	24.203(a)(2) through (5).	24.203(a)(4).	24.401(c)(2)	24.401(c)(4).
24.2(a)(8)	24.2 Decent, safe, and sanitary dwelling.	24.203(d)	24.2 Notice of intent to acquire.	24.403(a)(5)	24.207(e).
24.2(a)(9)	24.2 Displaced person.	24.205(a)(4)	None.	24.403(a)(6)	24.207(f).
24.2(a)(9)(ii)(M)	None.	24.205(a)(5)	24.205(a)(4).	24.403(a)(7)	24.401(c)(2).
24.2(a)(10)	24.2 Dwelling.	24.205(c)(2)(i)(A) through (F).	None.	24.403(g)	24.401(c)(3).
24.2(a)(11)	None.	24.205(c)(2)(ii)(A)	24.205(c)(2)(ii).	None	24.404(c)(1)(viii).
24.2(a)(12)	24.2 Farm operation.	24.205(c)(2)(ii)(B)	24.205(c)(2)(ii)(A).	24.501(a)	24.501 Intro. para.
24.2(a)(13)	24.2 Federal financial assistance.	24.205(c)(2)(ii)(C)	24.205(c)(2)(ii)(B).	24.501(b)	24.505(e).
24.2(a)(14)	None.	24.205(c)(2)(ii)(D)	24.205(c)(2)(ii)(C).	24.502 Heading	24.503.
24.2(a)(15)	24.2 Initiation of negotiations.	24.205(c)(2)(ii)(E)	24.205(c)(2)(ii)(D).	24.502(a)	24.503(a)(1) and 505(c).
24.2(a)(15)(iv)	None.	24.205(c)(2)(ii)(F)	None.	24.502(a)(1)	24.503(a)(1) and 505(c).
24.2(a)(16)	24.2 Lead Agency.	None	24.205(c)(2)(vi).	24.502(a)(2) and (3)	24.503(a)(2) and (3).
24.2(a)(17)	None.	24.205(e)	24.205(c)(2)(iv).	24.502(b)	24.503(b).
24.2(a)(18)	24.2 Mortgage.	24.207(e)	24.207(g).	24.502(b)(1)	None.
24.2(a)(19)	24.2 Nonprofit organization.	24.207(f) and (g)	None.	24.502(b)(2)	24.503(a)(3) and 503(b).
24.2(a)(20)	24.2 Owner of a dwelling.	24.301(a)	24.303(a) and 24.502(b).	24.502(c)	24.505(a).
24.2(a)(21)	24.2 Person.	24.301(a)(1) and (2)	24.502(a).	24.502(d)	24.503(a)(3)(iii) and 24.505(b)(1).
24.2(a)(22)	24.2 Program or project.	24.301(b)(1) and (2)	24.301 Intro. para.	24.502(e)	24.505(b)(2).
24.2(a)(23)	24.2 Salvage value.	24.301(b)(1)	24.303(a).	24.503	24.504.
24.2(a)(24)	24.2 Small business.	24.301(b)(2)(i)	24.303(c).		
24.2(a)(25)	24.2 State.	24.301(b)(2)(ii)	24.303(c).		
24.2(a)(26)	24.2 Tenant.	24.301(b)(3)	24.303(c).		
24.2(a)(27)	24.2 Uneconomical remnant.	24.301(b)(3)	24.303(c).		
24.2(a)(28)	24.2 Uniform Act.	24.301(c)	24.303(c).		
24.2(a)(29)	24.2 Unlawful occupancy.	24.301(c)	24.303(c).		
24.2(a)(30)	24.2 Utility costs.	24.301(d)	24.303(c).		
24.2(a)(31)	24.2 Utility facility.	24.301(d)(1) and (2)	24.303(c).		
24.2(a)(32)	24.2 Utility relocation.	24.301(d)	24.303(c).		
24.2(a)(33)	None.	24.301(d)(1) and (2)	24.303(c).		
24.2(b)	None.	24.301(f)	24.303(e).		
24.8(m)	None.	24.301(g)(1)	24.303(e).		
24.8(n)	None.	24.301(g)(1)	24.303(a)(1) and 24.301(a).		
24.8(o)	None.	24.301(g)(2)	24.301(b) and 24.303(a)(2).		
24.101(a) and (b)	24.101(a).	24.301(g)(3)	24.303(a)(3).		
24.101(b)(1)	24.101(a)(1).	24.301(g)(4)	24.303(a)(4) and 24.301(d).		
24.101(b)(1)(i)	24.101(a)(1)(i).	24.301(g)(5)	24.303(a)(5) and 24.301(e).		
24.101(b)(1)(ii)	24.101(a)(1)(ii).	24.301(g)(6)	24.303(a)(7) and 24.301(f).		
24.101(b)(1)(iii)	24.101(a)(1)(iii).	24.301(g)(7)	24.303(a)(14) and 24.301(g).		
24.101(b)(1)(iv)	24.101(a)(1)(iv).	24.301(g)(8)	24.502(b)(1).		
24.101(b)(2)	24.101(a)(2).	24.301(g)(9)	24.502(b)(2).		
24.101(b)(2)(i)	24.101(a)(2)(i).	24.301(g)(10)	24.502(b)(3).		
24.101(b)(2)(ii)	24.101(a)(2)(ii).	24.301(g)(11)	24.303(a)(6).		
24.101(b)(3)	24.101(a)(3).	24.301(g)(12)	24.303(a)(8).		
24.101(b)(4)	24.101(a)(4).	24.301(g)(12)(i) through (iii).	24.303(a)(8)(i) through (iii).		
		24.301(g)(13) through (17).	24.303(a)(9) through (13)(iv).		
		24.301(g)(17)(v) and (vi).	None.		
		24.101(g)(18)	None.		
		24.301(h)(1) through (11).	24.305(a) through (k).		
		24.301(i)	24.303(b).		
		24.301(j)	24.303(d).		
		24.303 Intro. para.	23.303 Intro. para.		
		24.303(a)	24.304(a)(4).		

DISTRIBUTION TABLE

Old section	New section
Subpart A	Subpart A
24.1	24.1 Text unchanged.
24.2 Heading	24.2 Heading revised.
None	24.2(a) Introductory para. added.
Agency (1) Acquiring agency	24.2(a)(1) Revised.
(2) Displacing agency	24.2(a)(1)(i) Redesignated and revised.
(3) Federal agency	24.2(a)(1)(ii) Redesignated and text unchanged.
(4) State agency	24.2(a)(1)(iii) Redesignated and text unchanged.
Alien not lawfully present in the US.	24.2(a)(1)(iv) Redesignated and text unchanged.
Appraisal	24.2(a)(2) Redesignated.
	24.2(a)(2)(i) Redesignated and revised.
	24.2(a)(2)(ii) Redesignated and text unchanged.
	24.2(a)(3) Redesignated and text unchanged.
Business	24.2(a)(4) Redesignated.

DISTRIBUTION TABLE—Continued		DISTRIBUTION TABLE—Continued		DISTRIBUTION TABLE—Continued	
Old section	New section	Old section	New section	Old section	New section
24.304(a)(6)	24.301(g)(11) Redesignated.	24.401(d)	24.401(d) Text unchanged.	24.503(a)	24.502(a) Redesignated and revised.
24.304(a)(7)	24.303(b) Redesignated and revised.	24.401(d)(1)	24.401(d) Revised.	24.503(a)(1)	24.502(a)(1) Redesignated and revised.
24.304(a)(8)	24.304(a)(5) Redesignated.	24.401(d)(2) through 24.401(e)(3).	24.401(d)(2) through 24.401(e)(3) Text unchanged.	None	24.502(a)(1)(i) through (iii) Added.
24.304(a)(9)	24.303(b) Redesignated and revised.	24.401(e)(4)	24.401(e)(4) Revised.	24.503(a)(2)	24.502(a)(2) Redesignated and text unchanged.
24.304(a)(10)	24.304(a)(6) Redesignated.	24.401(e)(5) through (e)(9).	24.401(e)(5) through (e)(9) Text unchanged.	24.503(a)(3)	24.502(a)(3) Redesignated and revised.
24.304(a)(11)	24.303(c) Redesignated and revised.	24.401(f)	24.401(f) Revised.	24.503(a)(3)(i) through (iv).	24.502(a)(3)(i) through (iv) Redesignated and text unchanged.
24.304(a)(12)	24.304(a)(7) Redesignated.	24.402(a) through (b)(2)(i).	24.402(a) through (b)(2)(i) Text unchanged.	None	24.502(b)(1) Added.
24.304(b)(1) through (3).	24.304(b)(1) through (3) Text unchanged.	24.402(b)(2)(ii)	24.402(b)(2)(ii) Revised.	24.503(b)	24.502(b)(2) Redesignated and revised.
24.304(b)(4)	24.304(b)(4) Revised.	24.402(b)(2)(iii) and (b)(3).	24.402(b)(2)(iii) and (b)(3) Text unchanged.	None	24.502(b)(3) Added.
24.305 section heading.	24.305 Removed.	24.402(c)(1)	24.402(c)(1) Revised.	None	24.502(c) through (e) Added.
24.305(a) through (k)	24.301(h)(1) through (h)(11) Redesignated and revised.	24.402(c)(2)	24.402(c)(2) Text unchanged.	24.504 Heading	24.503 Heading Redesignated and text unchanged.
None	24.305(h)(12) Added.	24.403 Heading	24.403 Text unchanged.	24.504 Intro. para.	24.503 Intro. para. Redesignated.
24.306 section heading.	24.305 Redesignated.	24.403(a) and (a)(1) ..	24.403(a) and (a)(1) Revised.	24.504(a) and (b)	24.503(a) and (b) Redesignated and text unchanged.
24.306(a)	24.305(a) Redesignated and revised.	24.403(a)(2) through (4).	24.403(a)(2) through (4) Text unchanged.	24.504(c)	24.503(c) Redesignated and revised.
24.306(a)(1) through (a)(5).	24.305(a)(1) through (a)(5) Redesignated and text unchanged.	None	24.403(a)(5) through (7) Added.	24.505(a) through (e)	24.505(a) through (e) Removed.
24.306(a)(6)	24.305(a)(6) Revised.	24.403(b)	24.403(b) Revised.	24.505(e)	24.501(b) Redesignated.
24.306(b)	24.305(b) Revised.	24.403(c) through (f)(1).	24.403(c) through (f)(1) Text unchanged.	24.601	24.601 Text unchanged.
24.306(c)	24.305(c) Revised.	24.403(f)(2)	24.403(f)(2) Revised.	24.602	24.602 Revised.
24.306(c)(1) through (d).	24.305(c)(1) through (d) Redesignated.	24.403(f)(3)	24.403(f)(3) Text unchanged.	24.603	24.603 Text unchanged.
24.306(e)	24.305(e) Revised.	None	24.403(g) Added.		
24.307 section heading.	24.306 Redesignated.	24.404(a) through 404(a)(2)(ii).	24.404(a) through 404(a)(2)(ii) Text unchanged.		
24.307(a) through (b)	24.306(a) through (b) Redesignated.	24.404(a)(2)(iii)	24.404(a)(2)(iii) Revised.		
24.307(c)	24.306(c) Revised.	24.404(b) through 404(c)(1)(vi).	24.404(b) through 404(c)(1)(vi) Text unchanged.		
Subpart E	Subpart E	24.404(b) through 404(c)(1)(i).	24.404(b) through 404(c)(1)(i) Revised.		
24.401 through 24.401(b).	24.401 through 24.401(b) Text unchanged.	24.404(c)(1)(ii) through (vi).	24.404(c)(1)(ii) through (vi) text unchanged.		
24.401(c)	24.401(c) Text unchanged.	24.404(c)(1)(vii)	24.404(c)(1)(vii) Revised.		
24.401(c)(1)	24.401(c)(1) Revised.	24.404(c)(1)(viii).	Removed.		
24.401(c)(1)(i) and (ii)	24.401(c)(1)(i) and (ii) Text unchanged.	24.404(c)(2) and (3) ..	24.404(c)(2) and (3) Revised.		
24.401(c)(2)	24.403(a)(7) Redesignated and revised.	Subpart F	Subpart F		
24.401(c)(3)	24.403(g) Redesignated and text unchanged.	24.501 Heading	24.501 Heading Text unchanged.		
24.401(c)(4)	24.401(c)(2) Redesignated and text unchanged.	24.501 Intro. para.	24.501(a) Redesignated and revised.		
24.401(c)(4)(i)	24.401(c)(2)(i) Redesignated and text unchanged.	None	24.501(b) Added.		
24.401(c)(4)(ii) and (iii).	24.401(c)(2)(ii) and (iii) Redesignated and revised.	24.502(a)	24.301 (a)(1) and (2)		
24.401(c)(4)(iv)	24.401(c)(2)(iv) Redesignated and text unchanged.	24.502(b) through (b)(3).	24.301(g)(8) through (g)(10) Redesignated and revised.		
		24.503 section heading.	24.502 Redesignated and revised.		

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866, nor is it significant within the meaning of Department of Transportation regulatory policies and procedures.

This action updates and streamlines the Uniform Act regulation and does not include any new initiatives. We have made only nominal adjustments to enhance services and payments to persons displaced by Federal and federally-assisted programs and projects. The costs of the increased benefits will continue to be funded through Federal and federally-assisted project funds. These changes will assist the 18 Federal Agencies that acquire real property or displace persons, and several of these Agencies provided input in developing this final rule.

This final rule will not adversely affect, in a material way, any sector of the economy. This action will assist Agencies in developing their programs that acquire real property or displace persons by providing increased assistance, especially for businesses, farms and nonprofit organizations. None of the changes will materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612) the FHWA has evaluated the effects of this action on small entities and has determined that the final rule will not have a significant economic impact on a substantial number of small entities.

This action updates the government-wide regulation that provides assistance for persons, including small businesses, displaced by Federal and federally-assisted programs or projects. One of the reasons for the update is to increase assistance for displaced small businesses. We anticipate this final rule will have a positive impact on those relatively few small businesses that are affected by such programs or projects. Financial impacts on local governments are mitigated by the fact that any increased costs will accrue only on federally-assisted programs, which will include participation of Federal funds. For these reasons, the FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This final rule will not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, March 22, 1995, 109 Stat. 48). The updates are applicable only on Federal and federally-assisted programs. This final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$120.7 million or more in any one year (2 U.S.C. 1532).

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA has determined that this action will not have a substantial direct effect or sufficient federalism implications on States that will limit the policymaking discretion of the States. The FHWA has also determined that this action will not preempt any State law, or State

regulation, or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520.

National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and has determined that this final rule will not have any effect on the quality of the environment.

Executive Order 12630 (Taking of Private Property)

This action will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Government Actions and Interface with Constitutionally Protected Property Rights.

Executive Order 12988 (Civil Justice Reform)

This final rule meets applicable standards in §§ 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this final rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This action does not involve an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this final rule under Executive Order 13175, dated November 6, 2000, and believes that this action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt

tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this final rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 24

Real property acquisition, Relocation assistance, Reporting and recordkeeping requirements and Transportation.

Issued on: December 27, 2004.

Mary E. Peters,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA amends title 49, Code of Federal Regulations, Part 24, as set forth below:

PART 24—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

Subpart A—General

- Sec.
- 24.1 Purpose.
 - 24.2 Definitions and acronyms.
 - 24.3 No duplication of payments.
 - 24.4 Assurances, monitoring and corrective action.
 - 24.5 Manner of notices.
 - 24.6 Administration of jointly-funded projects.
 - 24.7 Federal Agency waiver of regulations.
 - 24.8 Compliance with other laws and regulations.
 - 24.9 Recordkeeping and reports.
 - 24.10 Appeals.

Subpart B—Real Property Acquisition

- 24.101 Applicability of acquisition requirements.
- 24.102 Basic acquisition policies.
- 24.103 Criteria for appraisals.
- 24.104 Review of appraisals.
- 24.105 Acquisition of tenant-owned improvements.

- 24.106 Expenses incidental to transfer of title to the Agency.
 24.107 Certain litigation expenses.
 24.108 Donations.

Subpart C—General Relocation Requirements

- 24.201 Purpose.
 24.202 Applicability.
 24.203 Relocation notices.
 24.204 Availability of comparable replacement dwelling before displacement.
 24.205 Relocation planning, advisory services, and coordination.
 24.206 Eviction for cause.
 24.207 General requirements claims for relocation payments.
 24.208 Aliens not lawfully present in the United States.
 24.209 Relocation payments not considered as income.

Subpart D—Payments for Moving and Related Expenses

- 24.301 Payment for actual reasonable moving and related expenses.
 24.302 Fixed payment for moving expenses' residential moves.
 24.303 Related nonresidential eligible expenses.
 24.304 Reestablishment expenses' nonresidential moves.
 24.305 Fixed payment for moving expenses' nonresidential moves.
 24.306 Discretionary utility relocation payments.

Subpart E—Replacement Housing Payments

- 24.401 Replacement housing payment for 180-day homeowner-occupants.
 24.402 Replacement housing payment for 90-day occupants.
 24.403 Additional rules governing replacement housing payments.
 24.404 Replacement housing of last resort.

Subpart F—Mobile Homes

- 24.501 Applicability.
 24.502 Replacement housing payment for 180-day mobile homeowner displaced from a mobile home, and/or from the acquired mobile home site.
 24.503 Replacement housing payment for 90-day mobile home occupants.

Subpart G—Certification

- 24.601 Purpose.
 24.602 Certification application.
 24.603 Monitoring and corrective action.
 Appendix A to Part 24—Additional Information
 Appendix B to Part 24—Statistical Report Form

Authority: 42 U.S.C. 4601 *et seq.*; 49 CFR 1.48(cc).

Subpart A—General

§ 24.1 Purpose.

The purpose of this part is to promulgate rules to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 *et*

seq.) (Uniform Act), in accordance with the following objectives:

(a) To ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal and federally-assisted land acquisition programs;

(b) To ensure that persons displaced as a direct result of Federal or federally-assisted projects are treated fairly, consistently, and equitably so that such displaced persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and

(c) To ensure that Agencies implement these regulations in a manner that is efficient and cost effective.

§ 24.2 Definitions and acronyms.

(a) *Definitions.* Unless otherwise noted, the following terms used in this part shall be understood as defined in this section:

(1) *Agency.* The term *Agency* means the Federal Agency, State, State Agency, or person that acquires real property or displaces a person.

(i) *Acquiring Agency.* The term *acquiring Agency* means a State Agency, as defined in paragraph (a)(1)(iv) of this section, which has the authority to acquire property by eminent domain under State law, and a State Agency or person which does not have such authority.

(ii) *Displacing Agency.* The term *displacing Agency* means any Federal Agency carrying out a program or project, and any State, State Agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person.

(iii) *Federal Agency.* The term *Federal Agency* means any department, Agency, or instrumentality in the executive branch of the government, any wholly owned government corporation, the Architect of the Capitol, the Federal Reserve Banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.

(iv) *State Agency.* The term *State Agency* means any department, Agency or instrumentality of a State or of a political subdivision of a State, any department, Agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States, and any person who has the

authority to acquire property by eminent domain under State law.

(2) *Alien not lawfully present in the United States.* The phrase "alien not lawfully present in the United States" means an alien who is not "lawfully present" in the United States as defined in 8 CFR 103.12 and includes:

(i) An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 *et seq.*) and whose stay in the United States has not been authorized by the United States Attorney General; and,

(ii) An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

(3) *Appraisal.* The term *appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(4) *Business.* The term *business* means any lawful activity, except a farm operation, that is conducted:

(i) Primarily 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;

(ii) Primarily for the sale of services to the public;

(iii) Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

(iv) By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

(5) *Citizen.* The term *citizen* for purposes of this part includes both citizens of the United States and noncitizen nationals.

(6) *Comparable replacement dwelling.* The term *comparable replacement dwelling* means a dwelling which is:

(i) Decent, safe and sanitary as described in paragraph 24.2(a)(8) of this section;

(ii) Functionally equivalent to the displacement dwelling. The term *functionally equivalent* means that it performs the same function, and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal

features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Agency may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling (See appendix A, § 24.2(a)(6));

(iii) Adequate in size to accommodate the occupants;

(iv) In an area not subject to unreasonable adverse environmental conditions;

(v) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;

(vi) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses. (See also § 24.403(a)(2));

(vii) Currently available to the displaced person on the private market except as provided in paragraph (a)(6)(ix) of this section (See appendix A, § 24.2(a)(6)(vii)); and

(viii) Within the financial means of the displaced person:

(A) A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential as described in § 24.401(c), all increased mortgage interest costs as described at § 24.401(d) and all incidental expenses as described at § 24.401(e), plus any additional amount required to be paid under § 24.404, Replacement housing of last resort.

(B) A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling as described at § 24.402(b)(2).

(C) For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-

occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if an Agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds the person's base monthly rent for the displacement dwelling as described in § 24.402(b)(2). Such rental assistance must be paid under § 24.404, Replacement housing of last resort.

(ix) For a person receiving government housing assistance before displacement, a dwelling that may reflect similar government housing assistance. In such cases any requirements of the government housing assistance program relating to the size of the replacement dwelling shall apply. (See appendix A, § 24.2(a)(6)(ix).)

(7) *Contribute materially*. The term *contribute materially* means that during the 2 taxable years prior to the taxable year in which displacement occurs, or during such other period as the Agency determines to be more equitable, a business or farm operation:

(i) Had average annual gross receipts of at least \$5,000; or

(ii) Had average annual net earnings of at least \$1,000; or

(iii) Contributed at least 33 $\frac{1}{3}$ percent of the owner's or operator's average annual gross income from all sources.

(iv) If the application of the above criteria creates an inequity or hardship in any given case, the Agency may approve the use of other criteria as determined appropriate.

(8) *Decent, safe, and sanitary dwelling*. The term *decent, safe, and sanitary dwelling* means a dwelling which meets local housing and occupancy codes. However, any of the following standards which are not met by the local code shall apply unless waived for good cause by the Federal Agency funding the project. The dwelling shall:

(i) Be structurally sound, weather tight, and in good repair;

(ii) Contain a safe electrical wiring system adequate for lighting and other devices;

(iii) Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system;

(iv) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. The number of persons occupying each habitable room used for sleeping purposes shall not exceed that permitted by local housing codes or, in the absence of local codes, the policies of the displacing Agency. In

addition, the displacing Agency shall follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes or in the absence of local codes, the policies of such Agencies;

(v) There shall be a separate, well lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator;

(vi) Contains unobstructed egress to safe, open space at ground level; and

(vii) For a displaced person with a disability, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person. (See appendix A, § 24.2(a)(8)(vii).)

(9) *Displaced person*. (i) *General*. The term *displaced person* means, except as provided in paragraph (a)(9)(ii) of this section, any person who moves from the real property or moves his or her personal property from the real property. (This includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act as described at § 24.401(a) and § 24.402(a);

(A) As a direct result of a written notice of intent to acquire (see § 24.203(d)), the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project;

(B) As a direct result of rehabilitation or demolition for a project; or

(C) As a direct result of 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 this paragraph applies only for purposes of obtaining relocation assistance advisory services under § 24.205(c), and moving expenses under § 24.301, § 24.302 or § 24.303.

(ii) *Persons not displaced*. The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

(A) A person who moves before the initiation of negotiations (see § 24.403(d)), unless the Agency determines that the person was

displaced as a direct result of the program or project;

(B) A person who initially enters into occupancy of the property after the date of its acquisition for the project;

(C) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;

(D) A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by the Agency in accordance with any guidelines established by the Federal Agency funding the project (See appendix A, § 24.2(a)(9)(ii)(D));

(E) An owner-occupant who moves as a result of an acquisition of real property as described in §§ 24.101(a)(2) or 24.101(b)(1) or (2), or as a result of the rehabilitation or demolition of the real property. (However, the displacement of a tenant as a direct result of any acquisition, rehabilitation or demolition for a Federal or federally-assisted project is subject to this part.);

(F) A person whom the Agency determines is not displaced as a direct result of a partial acquisition;

(G) A person who, after receiving a notice of relocation eligibility (described at § 24.203(b)), is notified in writing that he or she will not be displaced for a project. Such written notification shall not be issued unless the person has not moved and the Agency 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;

(H) An owner-occupant who conveys his or her property, as described in §§ 24.101(a)(2) or 24.101(b)(1) or (2), after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the Agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in this part;

(I) A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency;

(J) An owner who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of the Interior under Pub. L. 93-477, Appropriations for National Park System, or Pub. L. 93-303, Land and Water Conservation Fund, except that such owner remains a displaced person for purposes of subpart D of this part;

(K) A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause, under applicable law, as provided for in

§ 24.206. However, advisory assistance may be provided to unlawful occupants at the option of the Agency in order to facilitate the project;

(L) A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance in accordance with § 24.208; or

(M) Tenants required to move as a result of the sale of their dwelling to a person using downpayment assistance provided under the American Dream Downpayment Initiative (ADDI) authorized by section 102 of the American Dream Downpayment Act (Pub. L. 108-186; codified at 42 U.S.C. 12821).

(10) *Dwelling*. The term *dwelling* means 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.

(11) *Dwelling site*. The term *dwelling site* means a land area that is typical in size for similar dwellings located in the same neighborhood or rural area. (See appendix A, § 24.2(a)(11).)

(12) *Farm operation*. The term *farm operation* means 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.

(13) *Federal financial assistance*. The term *Federal financial assistance* means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

(14) *Household income*. The term *household income* means total gross income received for a 12 month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation, social security, or the net income from a business. It does not include income received or earned by dependent children and full time students under 18 years of age. (See appendix A, § 24.2(a)(14) for examples of exclusions to income.)

(15) *Initiation of negotiations*. Unless a different action is specified in

applicable Federal program regulations, the term *initiation of negotiations* means the following:

(i) Whenever the displacement results from the acquisition of the real property by a Federal Agency or State Agency, the *initiation of negotiations* means the delivery of the initial written offer of just compensation by the Agency to the owner or the owner's representative to purchase the real property for the project. However, if the Federal Agency or State Agency issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the *initiation of negotiations* means the actual move of the person from the property.

(ii) Whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of the real property (and there is no related acquisition by a Federal Agency or a State Agency), the *initiation of negotiations* means the notice to the person that he or she will be displaced by the project or, if there is no notice, the actual move of the person from the property.

(iii) In the case of a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96-510, or Superfund) (CERCLA) the *initiation of negotiations* means the formal announcement of such relocation or the Federal or federally-coordinated health advisory where the Federal Government later decides to conduct a permanent relocation.

(iv) In the case of permanent relocation of a tenant as a result of an acquisition of real property described in § 24.101(b)(1) through (5), the initiation of negotiations means the actions described in § 24.2(a)(15)(i) and (ii), except that such initiation of negotiations does not become effective, for purposes of establishing eligibility for relocation assistance for such tenants under this part, until there is a written agreement between the Agency and the owner to purchase the real property. (See appendix A, § 24.2(a)(15)(iv)).

(16) *Lead Agency*. The term *Lead Agency* means the Department of Transportation acting through the Federal Highway Administration.

(17) *Mobile home*. The term *mobile home* includes manufactured homes and recreational vehicles used as residences. (See appendix A, § 24.2(a)(17)).

(18) *Mortgage*. The term *mortgage* means 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 the real property is located, together with the credit instruments, if any, secured thereby.

(19) *Nonprofit organization*. The term *nonprofit organization* means 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).

(20) *Owner of a dwelling*. The term *owner of a dwelling* means a person who 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:

(i) 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

(ii) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

(iii) A contract to purchase any of the interests or estates described in § 24.2(a)(1)(i) or (ii) of this section; or

(iv) Any other interest, including a partial interest, which in the judgment of the Agency warrants consideration as ownership.

(21) *Person*. The term *person* means any individual, family, partnership, corporation, or association.

(22) *Program or project*. The phrase *program or project* means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines.

(23) *Salvage value*. The term *salvage value* means the probable sale price of an item offered for sale to knowledgeable buyers with the requirement that it be removed from the property at a buyer's expense (i.e., not eligible for relocation assistance). This includes items for re-use as well as items with components that can be re-used or recycled when there is no reasonable prospect for sale except on this basis.

(24) *Small business*. A *small business* is 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 of § 24.304.

(25) *State*. Any of the several States of the United States or 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.

(26) *Tenant*. The term *tenant* means a person who has the temporary use and occupancy of real property owned by another.

(27) *Uneconomic remnant*. The term *uneconomic remnant* means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the Agency has determined has little or no value or utility to the owner.

(28) *Uniform Act*. The term *Uniform Act* means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 84 Stat. 1894; 42 U.S.C. 4601 *et seq.*), and amendments thereto.

(29) *Unlawful occupant*. A person who occupies without property right, title or payment of rent or a person legally evicted, with no legal rights to occupy a property under State law. An Agency, at its discretion, may consider such person to be in lawful occupancy.

(30) *Utility costs*. The term *utility costs* means expenses for electricity, gas, other heating and cooking fuels, water and sewer.

(31) *Utility facility*. The term *utility facility* means any electric, gas, water, steam power, or materials transmission or distribution system; any transportation system; any communications system, including cable television; and any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system. A utility facility may be publicly, privately, or cooperatively owned.

(32) *Utility relocation*. The term *utility relocation* means the adjustment of a utility facility required by the program or project undertaken by the displacing Agency. It includes removing and reinstalling the facility, including necessary temporary facilities; acquiring necessary right-of-way on a new location; moving, rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures. It shall also mean constructing a replacement facility that has the functional equivalency of the existing facility and is necessary for the continued operation of the utility service, the project economy, or sequence of project construction.

(33) *Waiver valuation*. The term *waiver valuation* means the valuation process used and the product produced when the Agency determines that an appraisal is not required, pursuant to § 24.102(c)(2) appraisal waiver provisions.

(b) *Acronyms*. The following acronyms are commonly used in the

implementation of programs subject to this regulation:

(1) BCIS. Bureau of Citizenship and Immigration Service.

(2) FEMA. Federal Emergency Management Agency.

(3) FHA. Federal Housing Administration.

(4) FHWA. Federal Highway Administration.

(5) FIRREA. Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(6) HLR. Housing of last resort.

(7) HUD. U.S. Department of Housing and Urban Development.

(8) MIDP. Mortgage interest differential payment.

(9) RHP. Replacement housing payment.

(10) STURAA. Surface Transportation and Uniform Relocation Act Amendments of 1987.

(11) URA. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(12) USDOT. U.S. Department of Transportation.

(13) USPAP. Uniform Standards of Professional Appraisal Practice.

§ 24.3 No duplication of payments.

No person shall receive any payment under this part if that person receives a payment under Federal, State, local law, or insurance proceeds which is determined by the Agency to have the same purpose and effect as such payment under this part. (See appendix A, § 24.3).

§ 24.4 Assurances, monitoring and corrective action.

(a) *Assurances*. (1) Before a Federal Agency may approve any grant to, or contract, or agreement with, a State Agency under which Federal financial assistance will be made available for a project which results in real property acquisition or displacement that is subject to the Uniform Act, the State Agency must provide appropriate assurances that it will comply with the Uniform Act and this part. A displacing Agency's assurances shall be in accordance with section 210 of the Uniform Act. An acquiring Agency's assurances shall be in accordance with section 305 of the Uniform Act and must contain specific reference to any State law which the Agency believes provides an exception to §§ 301 or 302 of the Uniform Act. If, in the judgment of the Federal Agency, Uniform Act compliance will be served, a State Agency may provide these assurances at one time to cover all subsequent federally-assisted programs or projects. An Agency, which both acquires real

property and displaces persons, may combine its section 210 and section 305 assurances in one document.

(2) If a Federal Agency or State Agency provides Federal financial assistance to a "person" causing displacement, such Federal or State Agency is responsible for ensuring compliance with the requirements of this part, notwithstanding the person's contractual obligation to the grantee to comply.

(3) As an alternative to the assurance requirement described in paragraph (a)(1) of this section, a Federal Agency may provide Federal financial assistance to a State Agency after it has accepted a certification by such State Agency in accordance with the requirements in subpart G of this part.

(b) *Monitoring and corrective action.* The Federal Agency will monitor compliance with this part, and the State Agency shall take whatever corrective action is necessary to comply with the Uniform Act and this part. The Federal Agency may also apply sanctions in accordance with applicable program regulations. (Also see § 24.603, of this part).

(c) *Prevention of fraud, waste, and mismanagement.* The Agency shall take appropriate measures to carry out this part in a manner that minimizes fraud, waste, and mismanagement.

§ 24.5 Manner of notices.

Each notice which the Agency is required to provide to a property owner or occupant under this part, except the notice described at § 24.102(b), shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in Agency files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

§ 24.6 Administration of jointly-funded projects.

Whenever two or more Federal Agencies provide financial assistance to an Agency or Agencies, other than a Federal Agency, to carry out functionally or geographically related activities, which will result in the acquisition of property or the displacement of a person, the Federal Agencies may by agreement designate one such Agency as the cognizant Federal Agency. In the unlikely event that agreement among the Agencies cannot be reached as to which Agency

shall be the cognizant Federal Agency, then the Lead Agency shall designate one of such Agencies to assume the cognizant role. At a minimum, the agreement shall set forth the federally-assisted activities which are subject to its terms and cite any policies and procedures, in addition to this part, that are applicable to the activities under the agreement. Under the agreement, the cognizant Federal Agency shall assure that the project is in compliance with the provisions of the Uniform Act and this part. All federally-assisted activities under the agreement shall be deemed a project for the purposes of this part.

§ 24.7 Federal Agency waiver of regulations.

The Federal Agency funding the project may waive any requirement in this part not required by law if it determines that the waiver does not reduce any assistance or protection provided to an owner or displaced person under this part. Any request for a waiver shall be justified on a case-by-case basis.

§ 24.8 Compliance with other laws and regulations.

The implementation of this part must be in compliance with other applicable Federal laws and implementing regulations, including, but not limited to, the following:

(a) Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 *et seq.*).

(b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).

(c) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), as amended.

(d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

(e) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 *et seq.*).

(f) The Flood Disaster Protection Act of 1973 (Pub. L. 93-234).

(g) The Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*).

(h) Executive Order 11063—Equal Opportunity and Housing, as amended by Executive Order 12892.

(i) Executive Order 11246—Equal Employment Opportunity, as amended.

(j) Executive Order 11625—Minority Business Enterprise.

(k) Executive Orders 11988—Floodplain Management, and 11990—Protection of Wetlands.

(l) Executive Order 12250—Leadership and Coordination of Non-Discrimination Laws.

(m) Executive Order 12630—Governmental Actions and Interference with Constitutionally Protected Property Rights.

(n) Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 *et seq.*).

(o) Executive Order 12892—Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing (January 17, 1994).

§ 24.9 Recordkeeping and reports.

(a) *Records.* The Agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this part. These records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under this part, or in accordance with the applicable regulations of the Federal funding Agency, whichever is later.

(b) *Confidentiality of records.* Records maintained by an Agency in accordance with this part are confidential regarding their use as public information, unless applicable law provides otherwise.

(c) *Reports.* The Agency shall submit a report of its real property acquisition and displacement activities under this part if required by the Federal Agency funding the project. A report will not be required more frequently than every 3 years, or as the Uniform Act provides, unless the Federal funding Agency shows good cause. The report shall be prepared and submitted using the format contained in appendix B of this part.

§ 24.10 Appeals.

(a) *General.* The Agency shall promptly review appeals in accordance with the requirements of applicable law and this part.

(b) *Actions which may be appealed.* Any aggrieved person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly consider the person's application for assistance under this part. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under § 24.106 or § 24.107, or a relocation payment required under this part. The Agency shall consider a written appeal regardless of form.

(c) *Time limit for initiating appeal.* The Agency may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than 60 days after the person receives written notification of the Agency's determination of the person's claim.

(d) *Right to representation.* A person has a right to be represented by legal

counsel or other representative in connection with his or her appeal, but solely at the person's own expense.

(e) *Review of files by person making appeal.* The Agency shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by the Agency. The Agency may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

(f) *Scope of review of appeal.* In deciding an appeal, the Agency shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.

(g) *Determination and notification after appeal.* Promptly after receipt of all information submitted by a person in support of an appeal, the Agency shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the Agency shall advise the person of his or her right to seek judicial review of the Agency decision.

(h) *Agency official to review appeal.* The Agency official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not have been directly involved in the action appealed.

Subpart B—Real Property Acquisition

§ 24.101 Applicability of acquisition requirements.

(a) *Direct Federal program or project.*

(1) The requirements of this subpart apply to any acquisition of real property for a direct Federal program or project, except acquisition for a program or project that is undertaken by the Tennessee Valley Authority or the Rural Utilities Service. (See appendix A, § 24.101(a).)

(2) If a Federal Agency (except for the Tennessee Valley Authority or the Rural Utilities Service) will not acquire a property because negotiations fail to result in an agreement, the owner of the property shall be so informed in writing. Owners of such properties are not displaced persons, (see § 24.2(a)(9)(ii)(E) or (H)), and as such, are not entitled to relocation assistance benefits. However, tenants on such properties may be eligible for relocation assistance benefits. (See § 24.2(a)(9)).

(b) *Programs and projects receiving Federal financial assistance.* The requirements of this subpart apply to any acquisition of real property for

programs and projects where there is Federal financial assistance in any part of project costs except for the acquisitions described in paragraphs (b)(1) through (5) of this section. The relocation assistance provisions in this part are applicable to any tenants that must move as a result of an acquisition described in paragraphs (b)(1) through (5) of this section. Such tenants are considered displaced persons. (See § 24.2(a)(9).)

(1) The requirements of Subpart B do not apply to acquisitions that meet all of the following conditions in paragraphs (b)(1)(i) through (iv):

(i) No specific site or property needs to be acquired, although the Agency may limit its search for alternative sites to a general geographic area. Where an Agency wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated similarly. (See appendix A, § 24.101(b)(1)(i).)

(ii) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.

(iii) The Agency will not acquire the property if negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

(iv) The Agency will inform the owner in writing of what it believes to be the market value of the property. (See appendix A, § 24.101(b)(1)(iv) and (2)(ii).)

(2) Acquisitions for programs or projects undertaken by an Agency or person that receives Federal financial assistance but does not have authority to acquire property by eminent domain, provided that such Agency or person shall:

(i) Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property if negotiations fail to result in an agreement; and

(ii) Inform the owner in writing of what it believes to be the market value of the property. (See appendix A, § 24.101(b)(1)(iv) and (2)(ii).)

(3) The acquisition of real property from a Federal Agency, State, or State Agency, if the Agency desiring to make the purchase does not have authority to acquire the property through condemnation.

(4) The acquisition of real property by a cooperative from a person who, as a condition of membership in the cooperative, has agreed to provide without charge any real property that is needed by the cooperative.

(5) Acquisition for a program or project that receives Federal financial assistance from the Tennessee Valley Authority or the Rural Utilities Service.

(c) *Less-than-full-fee interest in real property.*

(1) The provisions of this subpart apply when acquiring fee title subject to retention of a life estate or a life use; to acquisition by leasing where the lease term, including option(s) for extension, is 50 years or more; and to the acquisition of permanent and/or temporary easements necessary for the project. However, the Agency may apply these regulations to any less-than-full-fee acquisition that, in its judgment, should be covered.

(2) The provisions of this subpart do not apply to temporary easements or permits needed solely to perform work intended exclusively for the benefit of the property owner, which work may not be done if agreement cannot be reached.

(d) *Federally-assisted projects.* For projects receiving Federal financial assistance, the provisions of §§ 24.102, 24.103, 24.104, and 24.105 apply to the greatest extent practicable under State law. (See § 24.4(a).)

§ 24.102 Basic acquisition policies.

(a) *Expeditious acquisition.* The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.

(b) *Notice to owner.* As soon as feasible, the Agency shall notify the owner in writing of the Agency's interest in acquiring the real property and the basic protections provided to the owner by law and this part. (See § 24.203.)

(c) *Appraisal, waiver thereof, and invitation to owner.*

(1) Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in § 24.102 (c)(2), and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(2) An appraisal is not required if:

(i) The owner is donating the property and releases the Agency from its obligation to appraise the property; or

(ii) The Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at \$10,000 or less, based on a review of available data.

(A) When an appraisal is determined to be unnecessary, the Agency shall prepare a waiver valuation.

(B) The person performing the waiver valuation must have sufficient

understanding of the local real estate market to be qualified to make the waiver valuation.

(C) The Federal Agency funding the project may approve exceeding the \$10,000 threshold, up to a maximum of \$25,000, if the Agency acquiring the real property offers the property owner the option of having the Agency appraise the property. If the property owner elects to have the Agency appraise the property, the Agency shall obtain an appraisal and not use procedures described in this paragraph. (See appendix A, § 24.102(c)(2).)

(d) *Establishment and offer of just compensation.* Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the market value of the property, taking into account the value of allowable damages or benefits to any remaining property. An Agency official must establish the amount believed to be just compensation. (See § 24.104.) Promptly thereafter, the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation. (See appendix A, § 24.102(d).)

(e) *Summary statement.* Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:

(1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.

(2) A description and location identification of the real property and the interest in the real property to be acquired.

(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are included as part of the offer of just compensation. Where appropriate, the statement shall identify any other separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate that such interest is not covered by this offer.

(f) *Basic negotiation procedures.* The Agency shall make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses in accordance with

§ 24.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The Agency shall consider the owner's presentation. (See appendix A, § 24.102(f).)

(g) *Updating offer of just compensation.* If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.

(h) *Coercive action.* The Agency shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

(i) *Administrative settlement.* The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared, which states what available information, including trial risks, supports such a settlement. (See appendix A, § 24.102(i).)

(j) *Payment before taking possession.* Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the Agency's approved appraisal of the market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the Agency may obtain a right-of-entry for construction purposes before making payment available to an owner. (See appendix A, § 24.102(j).)

(k) *Uneconomic remnant.* If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall

offer to acquire the uneconomic remnant along with the portion of the property needed for the project. (See § 24.2(a)(27).)

(l) *Inverse condemnation.* If the Agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

(m) *Fair rental.* If the Agency permits a former owner or tenant to occupy the real property after acquisition for a short term, or a period subject to termination by the Agency on short notice, the rent shall not exceed the fair market rent for such occupancy. (See appendix A, § 24.102(m).)

(n) *Conflict of interest.*

(1) The appraiser, review appraiser or person performing the waiver valuation shall not have any interest, direct or indirect, in the real property being valued for the Agency.

Compensation for making an appraisal or waiver valuation shall not be based on the amount of the valuation estimate.

(2) No person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, review or waiver valuation. Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work, except that, for a program or project receiving Federal financial assistance, the Federal funding Agency may waive this requirement if it determines it would create a hardship for the Agency.

(3) An appraiser, review appraiser, or waiver valuation preparer making an appraisal, appraisal review or waiver valuation may be authorized by the Agency to act as a negotiator for real property for which that person has made an appraisal, appraisal review or waiver valuation only if the offer to acquire the property is \$10,000, or less. (See appendix A, § 24.102(n).)

§ 24.103 Criteria for appraisals.

(a) *Appraisal requirements.* This section sets forth the requirements for real property acquisition appraisals for Federal and federally-assisted programs. Appraisals are to be prepared according to these requirements, which are intended to be consistent with the Uniform Standards of Professional

Appraisal Practice (USPAP).¹ (See appendix A, § 24.103(a).) The Agency may have appraisal requirements that supplement these requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA).²

(1) The Agency acquiring real property has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem.

(2) The Agency has the responsibility to assure that the appraisals it obtains are relevant to its program needs, reflect established and commonly accepted Federal and federally-assisted program appraisal practice, and as a minimum, complies with the definition of appraisal in § 24.2(a)(3) and the five following requirements: (See appendix A, §§ 24.103 and 24.103(a).)

(i) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property. (See appendix A, § 24.103(a)(1).)

(ii) All relevant and reliable approaches to value consistent with established Federal and federally-assisted program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value. (See appendix A, § 24.103(a).)

(iii) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and

verification by a party involved in the transaction.

(iv) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.

(v) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

(b) *Influence of the project on just compensation.* The appraiser shall disregard any decrease or increase in the market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner. (See appendix A, § 24.103(b).)

(c) *Owner retention of improvements.* If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at § 24.2(a)(24)) of the retained improvement.

(d) *Qualifications of appraisers and review appraisers.*

(1) The Agency shall establish criteria for determining the minimum qualifications and competency of appraisers and review appraisers. Qualifications shall be consistent with the scope of work for the assignment. The Agency shall review the experience, education, training, certification/licensing, designation(s) and other qualifications of appraisers, and review appraisers, and use only those determined by the Agency to be qualified. (See appendix A, § 24.103(d)(1).)

(2) If the Agency uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be State licensed or certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 *et seq.*).

§ 24.104 Review of appraisals.

The Agency shall have an appraisal review process and, at a minimum:

(a) A qualified review appraiser (see § 24.103(d)(1) and appendix A, § 24.104) shall examine the presentation and analysis of market information in all appraisals to assure that they meet the definition of appraisal found in 49 CFR 24.2(a)(3), appraisal requirements found in 49 CFR 24.103 and other applicable

requirements, including, to the extent appropriate, the UASFLA, and support the appraiser's opinion of value. The level of review analysis depends on the complexity of the appraisal problem. As needed, the review appraiser shall, prior to acceptance, seek necessary corrections or revisions. The review appraiser shall identify each appraisal report as recommended (as the basis for the establishment of the amount believed to be just compensation), accepted (meets all requirements, but not selected as recommended or approved), or not accepted. If authorized by the Agency to do so, the staff review appraiser shall also approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), and, if also authorized to do so, develop and report the amount believed to be just compensation. (See appendix A, § 24.104(a).)

(b) If the review appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined by the acquiring Agency that it is not practical to obtain an additional appraisal, the review appraiser may, as part of the review, present and analyze market information in conformance with § 24.103 to support a recommended (or approved) value. (See appendix A, § 24.104(b).)

(c) The review appraiser shall prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). Any damages or benefits to any remaining property shall be identified in the review appraiser's report. The review appraiser shall also prepare a signed certification that states the parameters of the review. The certification shall state the approved value, and, if the review appraiser is authorized to do so, the amount believed to be just compensation for the acquisition. (See appendix A, § 24.104(c).)

§ 24.105 Acquisition of tenant-owned improvements.

(a) *Acquisition of improvements.* When acquiring any interest in real property, the Agency shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the

¹ Uniform Standards of Professional Appraisal Practice (USPAP). Published by The Appraisal Foundation, a nonprofit educational organization. Copies may be ordered from The Appraisal Foundation at the following URL: <http://www.appraisalfoundation.org/html/USPAP2004/toc.htm>.

² The "Uniform Appraisal Standards for Federal Land Acquisitions" is published by the Interagency Land Acquisition Conference. It is a compendium of Federal eminent domain appraisal law, both case and statute, regulations and practices. It is available at <http://www.usdoj.gov/enrd/land-ack/toc.htm> or in soft cover format from the Appraisal Institute at <http://www.appraisalinstitute.org/econom/publications/Default.asp> and select "Legal/Regulatory" or call 888-570-4545.

improvement at the expiration of the lease term.

(b) *Improvements considered to be real property.* Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this subpart.

(c) *Appraisal and Establishment of Just Compensation for a Tenant-Owned Improvement.* Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the market value of the whole property, or its salvage value, whichever is greater. (Salvage value is defined at § 24.2(a)(23).)

(d) *Special conditions for tenant-owned improvements.* No payment shall be made to a tenant-owner for any real property improvement unless:

(1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the Agency all of the tenant-owner's right, title, and interest in the improvement;

(2) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and

(3) The payment does not result in the duplication of any compensation otherwise authorized by law.

(e) *Alternative compensation.* Nothing in this subpart shall be construed to deprive the tenant-owner of any right to reject payment under this subpart and to obtain payment for such property interests in accordance with other applicable law.

§ 24.106 Expenses incidental to transfer of title to the Agency.

(a) The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

(1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Agency. However, the Agency is not required to pay costs solely required to perfect the owner's title to the real property;

(2) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(3) The pro rata portion of any prepaid real property taxes which are allocable to the period after the Agency obtains title to the property or effective possession of it, whichever is earlier.

(b) Whenever feasible, the Agency shall pay these costs directly to the

billing agent so that the owner will not have to pay such costs and then seek reimbursement from the Agency.

§ 24.107 Certain litigation expenses.

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:

(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation;

(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or

(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the Agency effects a settlement of such proceeding.

§ 24.108 Donations.

An owner whose real property is being acquired may, after being fully informed by the Agency of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefore, to the Agency as such owner shall determine. The Agency is responsible for ensuring that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation, except as provided in § 24.102(c)(2).

Subpart C—General Relocation Requirements

§ 24.201 Purpose.

This subpart prescribes general requirements governing the provision of relocation payments and other relocation assistance in this part.

§ 24.202 Applicability.

These requirements apply to the relocation of any displaced person as defined at § 24.2(a)(9). Any person who qualifies as a displaced person must be fully informed of his or her rights and entitlements to relocation assistance and payments provided by the Uniform Act and this regulation. (See appendix A, § 24.202.)

§ 24.203 Relocation notices.

(a) *General information notice.* As soon as feasible, a person scheduled to be displaced shall be furnished with a general written description of the displacing Agency's relocation program which does at least the following:

(1) Informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of

eligibility, and the procedures for obtaining the payment(s);

(2) Informs the displaced person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the displaced person successfully relocate;

(3) Informs the displaced person that he or she will not be required to move without at least 90 days advance written notice (see paragraph (c) of this section), and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available;

(4) Informs the displaced person that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as defined in § 24.208(h); and

(5) Describes the displaced person's right to appeal the Agency's determination as to a person's application for assistance for which a person may be eligible under this part.

(b) *Notice of relocation eligibility.* Eligibility for relocation assistance shall begin on the date of a notice of intent to acquire (described in § 24.203(d)), the initiation of negotiations (defined in § 24.2(a)(15)), or actual acquisition, whichever occurs first. When this occurs, the Agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

(c) *Ninety-day notice.* (1) *General.* No lawful occupant shall be required to move unless he or she has received at least 90 days advance written notice of the earliest date by which he or she may be required to move.

(2) *Timing of notice.* The displacing Agency may issue the notice 90 days or earlier before it expects the person to be displaced.

(3) *Content of notice.* The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. If the 90-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than 90 days after such a dwelling is made available. (See § 24.204(a).)

(4) *Urgent need.* In unusual circumstances, an occupant may be

required to vacate the property on less than 90 days advance written notice if the displacing Agency determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the Agency's determination shall be included in the applicable case file.

(d) *Notice of intent to acquire.* A notice of intent to acquire is a displacing Agency's written communication that is provided to a person to be displaced, including those to be displaced by rehabilitation or demolition activities from property acquired prior to the commitment of Federal financial assistance to the activity, which clearly sets forth that the Agency intends to acquire the property. A notice of intent to acquire establishes eligibility for relocation assistance prior to the initiation of negotiations and/or prior to the commitment of Federal financial assistance. (See § 24.2(a)(9)(i)(A).)

§ 24.204 Availability of comparable replacement dwelling before displacement.

(a) *General.* No person to be displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling (defined at § 24.2 (a)(6)) has been made available to the person. When possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

(1) The person is informed of its location;

(2) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and

(3) Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

(b) *Circumstances permitting waiver.* The Federal Agency funding the project may grant a waiver of the policy in paragraph (a) of this section in any case where it is demonstrated that a person must move because of:

(1) A major disaster as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5122);

(2) A presidentially declared national emergency; or

(3) Another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a

substantial danger to the health or safety of the occupants or the public.

(c) *Basic conditions of emergency move.* Whenever a person to be displaced is required to relocate from the displacement dwelling for a temporary period because of an emergency as described in paragraph (b) of this section, the Agency shall:

(1) Take whatever steps are necessary to assure that the person is temporarily relocated to a decent, safe, and sanitary dwelling;

(2) Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the temporary relocation; and

(3) Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily occupied dwelling.)

§ 24.205 Relocation planning, advisory services, and coordination.

(a) *Relocation planning.* During the early stages of development, an Agency shall plan Federal and federally-assisted programs or projects in such a manner that recognizes the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations and develop solutions to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by an Agency which will cause displacement, and should be scoped to the complexity and nature of the anticipated displacing activity including an evaluation of program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study, which may include the following:

(1) An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and persons with disabilities when applicable.

(2) An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, the

Agency should consider housing of last resort actions.

(3) An estimate of the number, type and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected.

(4) An estimate of the availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the businesses should be considered and addressed. Planning for displaced businesses which are reasonably expected to involve complex or lengthy moving processes or small businesses with limited financial resources and/or few alternative relocation sites should include an analysis of business moving problems.

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

(b) *Loans for planning and preliminary expenses.* In the event that an Agency elects to consider using the duplicative provision in section 215 of the Uniform Act which permits the use of project funds for loans to cover planning and other preliminary expenses for the development of additional housing, the Lead Agency will establish criteria and procedures for such use upon the request of the Federal Agency funding the program or project.

(c) *Relocation assistance advisory services.* (1) *General.* The Agency shall carry out 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 offer the services described in paragraph (c)(2) of this section. If the Agency determines that a person occupying property adjacent to the real property acquired for the project is caused substantial economic injury because of such acquisition, it may offer advisory services to such person.

(2) *Services to be provided.* The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to:

(i) Determine, for nonresidential (businesses, farm and nonprofit organizations) displacements, the relocation needs and preferences of each business (farm and nonprofit organization) to be displaced and explain the relocation payments and other assistance for which the business may be eligible, the related eligibility requirements, and the procedures for

obtaining such assistance. This shall include a personal interview with each business. At a minimum, interviews with displaced business owners and operators should include the following items:

(A) The business's replacement site requirements, current lease terms and other contractual obligations and the financial capacity of the business to accomplish the move.

(B) Determination of the need for outside specialists in accordance with § 24.301(g)(12) that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.

(C) For businesses, an identification and resolution of personalty/realty issues. Every effort must be made to identify and resolve realty/personalty issues prior to, or at the time of, the appraisal of the property.

(D) An estimate of the time required for the business to vacate the site.

(E) An estimate of the anticipated difficulty in locating a replacement property.

(F) An identification of any advance relocation payments required for the move, and the Agency's legal capacity to provide them.

(ii) Determine, for residential displacements, the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each residential displaced person.

(A) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in § 24.204(a).

(B) As soon as feasible, the Agency shall inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment (*see* § 24.403 (a) and (b)) and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which he or she may qualify.

(C) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. (*See* § 24.2(a)(8).) If such an inspection is not made, the Agency shall

notify the person to be displaced that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.

(D) Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an Agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling. (*See* appendix A, § 24.205(c)(2)(ii)(D).)

(E) The Agency shall offer all persons transportation to inspect housing to which they are referred.

(F) Any displaced person that may be eligible for government housing assistance at the replacement dwelling shall be advised of any requirements of such government housing assistance program that would limit the size of the replacement dwelling (*see* § 24.2(a)(6)(ix)), as well as of the long term nature of such rent subsidy, and the limited (42 month) duration of the relocation rental assistance payment.

(iii) Provide, for nonresidential moves, current and continuing information on the availability, purchase prices, and rental costs of suitable commercial and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

(iv) Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.

(v) Supply persons to be displaced with appropriate information concerning Federal and State housing programs, disaster loan and other programs administered by the Small Business Administration, and other Federal and State programs offering assistance to displaced persons, and technical help to persons applying for such assistance.

(d) *Coordination of relocation activities.* Relocation activities shall be coordinated with project work and other displacement-causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and the duplication of functions is minimized. (*See* § 24.6.)

(e) Any person who occupies property acquired by an Agency, when such occupancy began subsequent to the acquisition of the property, and the

occupancy is permitted by a short term rental agreement or an agreement subject to termination when the property is needed for a program or project, shall be eligible for advisory services, as determined by the Agency.

§ 24.206 Eviction for cause.

(a) Eviction for cause must conform to applicable State and local law. Any person who occupies the real property and is not in unlawful occupancy on the date of the initiation of negotiations, is presumed to be entitled to relocation payments and other assistance set forth in this part unless the Agency determines that:

(1) The person received an eviction notice prior to the initiation of negotiations and, as a result of that notice is later evicted; or

(2) The person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement; and

(3) In either case the eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance set forth in this part.

(b) For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves, or if later, the date a comparable replacement dwelling is made available. This section applies only to persons who would otherwise have been displaced by the project. (*See* appendix A, § 24.206.)

§ 24.207 General requirements—claims for relocation payments.

(a) *Documentation.* Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A displaced person must be provided reasonable assistance necessary to complete and file any required claim for payment.

(b) *Expeditious payments.* The Agency shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

(c) *Advanced payments.* If a person demonstrates the need for an advanced relocation payment in order to avoid or reduce a hardship, the Agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

(d) *Time for filing.* (1) All claims for a relocation payment shall be filed with the Agency no later than 18 months after:

(i) For tenants, the date of displacement.

(ii) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

(2) The Agency shall waive this time period for good cause.

(e) *Notice of denial of claim.* If the Agency disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

(f) *No waiver of relocation assistance.* A displacing Agency shall not propose or request that a displaced person waive his or her rights or entitlements to relocation assistance and benefits provided by the Uniform Act and this regulation.

(g) *Expenditure of payments.* Payments, provided pursuant to this part, shall not be considered to constitute Federal financial assistance. Accordingly, this part does not apply to the expenditure of such payments by, or for, a displaced person.

§ 24.208 Aliens not lawfully present in the United States.

(a) 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 United States, or an alien who is lawfully present in the United States.

(2) In the case of a family, that each family member is either a citizen or national of the United States, or an alien who is lawfully present in the United States. 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 United States, or an alien who is lawfully present in the United States. The certification may be made by the principal owner, manager, or operating officer on behalf of other persons with an ownership interest.

(4) In the case of an incorporated business, farm, or nonprofit organization, that the corporation is authorized to conduct business within the United States.

(b) The certification provided pursuant to paragraphs (a)(1), (a)(2), and

(a)(3) of this section shall indicate whether such person is either a citizen or national of the United States, or an alien who is lawfully present in the United States. Requirements concerning the certification in addition to those contained in this rule shall be within the discretion of the Federal funding Agency and, within those parameters, that of the displacing Agency.

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

(d) The displacing Agency shall consider the certification provided pursuant to paragraph (a) of this section to be valid, unless the displacing Agency determines in accordance with paragraph (f) of this section that it is invalid based on a review of an alien's documentation or other information that the Agency considers reliable and appropriate.

(e) Any review by the displacing Agency of the certifications provided pursuant to paragraph (a) of this section shall be conducted in a nondiscriminatory fashion. Each displacing Agency will apply the same standard of review to all such certifications it receives, except that such standard may be revised periodically.

(f) If, based on a review of an alien's documentation or other credible evidence, a displacing Agency has reason to believe that a person's certification is invalid (for example a document reviewed does not on its face reasonably appear to be genuine), and that, as a result, such person may be an alien not lawfully present in the United States, it shall obtain the following information before making a final determination:

(1) If the Agency has reason to believe that the certification of a person who has certified that he or she is an alien lawfully present in the United States is invalid, the displacing Agency shall obtain verification of the alien's status from the local Bureau of Citizenship and Immigration Service (BCIS) Office. A list

of local BCIS offices is available at <http://www.uscis.gov/graphics/fieldoffices/alpha.htm>. Any request for BCIS verification shall include the alien's full name, date of birth and alien number, and a copy of the alien's documentation. (If an Agency is unable to contact the BCIS, it may contact the FHWA in Washington, DC, Office of Real Estate Services or Office of Chief Counsel for a referral to the BCIS.)

(2) If the Agency has reason to believe that the certification of a person who has certified that he or she is a citizen or national is invalid, the displacing Agency shall request evidence of United States citizenship or nationality from such person and, if considered necessary, verify the accuracy of such evidence with the issuer.

(g) No relocation payments or relocation advisory assistance shall be provided to a person who has not provided the certification described in this section or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the displacing Agency's satisfaction that the denial of relocation assistance will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States.

(h) For purposes of paragraph (g) of this section, "exceptional and extremely unusual hardship" to such spouse, parent, or child of the person not lawfully present in the United States means that the denial of relocation payments and advisory assistance to such person will directly result in:

(1) A significant and demonstrable adverse impact on the health or safety of such spouse, parent, or child;

(2) A significant and demonstrable adverse impact on the continued existence of the family unit of which such spouse, parent, or child is a member; or

(3) Any other impact that the displacing Agency determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.

(i) The certification referred to in paragraph (a) of this section may be included as part of the claim for relocation payments described in § 24.207 of this part.

(Approved by the Office of Management and Budget under control number 2105-0508.)

§ 24.209 Relocation payments not considered as income.

No relocation payment received by a displaced person under this part shall be considered as income for the purpose

of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986 (Title 26, U.S. Code), or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act (42 U.S. Code 301 *et seq.*) or any other Federal law, except for any Federal law providing low-income housing assistance.

Subpart D—Payments for Moving and Related Expenses

§ 24.301 Payment for actual reasonable moving and related expenses.

(a) *General.* (1) Any owner-occupant or tenant who qualifies as a displaced person (defined at § 24.2(a)(9)) and who moves from a dwelling (including a mobile home) or who moves from a business, farm or nonprofit organization is entitled to payment of his or her actual moving and related expenses, as the Agency determines to be reasonable and necessary.

(2) A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under § 24.301 to relocate the mobile home. If the mobile home is not acquired as real estate, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described at § 24.502(a)(3), the home-owner occupant is not eligible for payment for moving the mobile home, but may be eligible for a payment for moving personal property from the mobile home.

(b) *Moves from a dwelling.* A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a dwelling may be determined based on the cost of one, or a combination of the following methods: (Eligible expenses for moves from a dwelling include the expenses described in paragraphs (g)(1) through (g)(7) of this section. Self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section.)

(1) *Commercial move*—moves performed by a professional mover.

(2) *Self-move*—moves that may be performed by the displaced person in one or a combination of the following methods:

(i) *Fixed Residential Moving Cost Schedule.* (Described in § 24.302.)

(ii) *Actual cost move.* Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the

equipment but not exceed the cost paid by a commercial mover.

(c) *Moves from a mobile home.* A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a mobile home may be determined based on the cost of one, or a combination of the following methods: (self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section. Eligible expenses for moves from a mobile home include those expenses described in paragraphs (g)(1) through (g)(7) of this section. In addition to the items in paragraph (a) of this section, the owner-occupant of a mobile home that is moved as personal property and used as the person's replacement dwelling, is also eligible for the moving expenses described in paragraphs (g)(8) through (g)(10) of this section.)

(1) *Commercial move*—moves performed by a professional mover.

(2) *Self-move*—moves that may be performed by the displaced person in one or a combination of the following methods:

(i) *Fixed Residential Moving Cost Schedule.* (Described in § 24.302.)

(ii) *Actual cost move.* Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

(d) *Moves from a business, farm or nonprofit organization.* Personal property as determined by an inventory from a business, farm or nonprofit organization may be moved by one or a combination of the following methods: (Eligible expenses for moves from a business, farm or nonprofit organization include those expenses described in paragraphs (g)(1) through (g)(7) of this section and paragraphs (g)(11) through (g)(18) of this section and § 24.303.)

(1) *Commercial move.* Based on the lower of two bids or estimates prepared by a commercial mover. At the Agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate.

(2) *Self-move.* A self-move payment may be based on one or a combination of the following:

(i) The lower of two bids or estimates prepared by a commercial mover or qualified Agency staff person. At the Agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate; or

(ii) Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the rates paid by a

commercial mover to employees performing the same activity and, equipment rental fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover.

(e) *Personal property only.* Eligible expenses for a person who is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm or nonprofit organization include those expenses described in paragraphs (g)(1) through (g)(7) and (g)(18) of this section. (See appendix A, § 24.301(e).)

(f) *Advertising signs.* The amount of a payment for direct loss of an advertising sign, which is personal property shall be the lesser of:

(1) The depreciated reproduction cost of the sign, as determined by the Agency, less the proceeds from its sale; or

(2) The estimated cost of moving the sign, but with no allowance for storage.

(g) *Eligible actual moving expenses.*

(1) Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(2) Packing, crating, unpacking, and uncrating of the personal property.

(3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property. For businesses, farms or nonprofit organizations this includes machinery, equipment, substitute personal property, and connections to utilities available within the building; it also includes modifications to the personal property, including those mandated by Federal, State or local law, code or ordinance, necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.

(4) Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.

(5) Insurance for the replacement value of the property in connection with the move and necessary storage.

(6) 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.

(7) Other moving-related expenses that are not listed as ineligible under

§ 24.301(h), as the Agency determines to be reasonable and necessary.

(8) The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a mobile home, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility "hookup" charges.

(9) The reasonable cost of repairs and/or modifications so that a mobile home can be moved and/or made decent, safe, and sanitary.

(10) The cost of a nonrefundable mobile home park entrance fee, to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the Agency determines that payment of the fee is necessary to effect relocation.

(11) Any license, permit, fees or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, fees or certification.

(12) Professional services as the Agency determines to be actual, reasonable and 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.

(13) Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

(14) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

(i) The fair market value in place of the item, as is for continued use, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the market value shall be based on the cost of the goods to the business, not the potential selling prices.); or

(ii) The estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. (See appendix A, § 24.301(g)(14)(i) and (ii).) If the business or farm operation is discontinued, the estimated cost of moving the item shall be based on a moving distance of 50 miles.

(15) The reasonable cost incurred in attempting to sell an item that is not to be relocated.

(16) *Purchase of substitute personal property.* If an item of personal property, which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

(i) The cost of the substitute item, including installation costs of 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 but with no allowance for storage. At the Agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

(17) Searching for a replacement location. A business or farm operation is entitled to reimbursement for actual expenses, not to exceed \$2,500, as the Agency 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 sites;

(v) Time spent in obtaining permits and attending zoning hearings; and

(vi) Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

(18) *Low value/high bulk.* When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the displacing Agency, the allowable moving cost payment shall not exceed the lesser of: The amount which would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new business location. Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property as determined by the Agency.

(h) *Ineligible moving and related expenses.* A displaced person is not entitled to payment for:

(1) The cost of moving any structure or other real property improvement in which the displaced person reserved

ownership. (However, this part does not preclude the computation under § 24.401(c)(2)(iii));

(2) Interest on a loan to cover moving expenses;

(3) Loss of goodwill;

(4) Loss of profits;

(5) Loss of trained employees;

(6) Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in § 24.304(a)(6);

(7) Personal injury;

(8) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency;

(9) Expenses for searching for a replacement dwelling;

(10) Physical changes to the real property at the replacement location of a business or farm operation except as provided in §§ 24.301(g)(3) and 24.304(a);

(11) Costs for storage of personal property on real property already owned or leased by the displaced person, and

(12) Refundable security and utility deposits.

(i) *Notification and inspection (nonresidential).* The Agency shall inform the displaced person, in writing, of the requirements of this section as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided the displaced person as set forth in § 24.203. To be eligible for payments under this section the displaced person must:

(1) Provide the Agency reasonable advance notice of the approximate date of the start of the move or disposition of the personal property and an inventory of the items to be moved. However, the Agency may waive this notice requirement after documenting its file accordingly.

(2) Permit the Agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

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

§ 24.302 Fixed payment for moving expenses—residential moves.

Any person displaced from a dwelling or a seasonal residence or a dormitory style room is entitled to receive a fixed moving cost payment as an alternative to a payment for actual moving and related expenses under § 24.301. This payment shall be determined according

to the Fixed Residential Moving Cost Schedule³ approved by the Federal Highway Administration and published in the **Federal Register** on a periodic basis. The payment to a person with minimal personal possessions who is in occupancy of a dormitory style room or a person whose residential move is performed by an Agency at no cost to the person shall be limited to the amount stated in the most recent edition of the Fixed Residential Moving Cost Schedule.

§ 24.303 Related nonresidential eligible expenses.

The following expenses, in addition to those provided by § 24.301 for moving personal property, shall be provided if the Agency determines that they are actual, reasonable and necessary:

(a) Connection to available nearby utilities from the right-of-way to improvements at the replacement site.

(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). At the discretion of the Agency a reasonable pre-approved hourly rate may be established. (See appendix A, § 24.303(b).)

(c) Impact fees or one time assessments for anticipated heavy utility usage, as determined necessary by the Agency.

§ 24.304 Reestablishment expenses—nonresidential moves.

In addition to the payments available under §§ 24.301 and 24.303 of this subpart, a small business, as defined in § 24.2(a)(24), 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.

(a) *Eligible expenses.* Reestablishment expenses must be reasonable and necessary, as determined by the Agency. They 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.

(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 2 years at the replacement site for such items as:

- (i) Lease or rental charges;
- (ii) Personal or real property taxes;
- (iii) Insurance premiums; and
- (iv) Utility charges, excluding impact fees.

(7) Other items that the Agency considers essential to the reestablishment of the business.

(b) *Ineligible expenses.* The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

(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 (defined at § 24.2(a)(7)) to the household income.

§ 24.305 Fixed payment for moving expenses—nonresidential moves.

(a) *Business.* A displaced business 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 §§ 24.301, 24.303 and 24.304. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with paragraph (e) of this section, but not less than \$1,000 nor more than \$20,000. The displaced business is eligible for the payment if the Agency 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 Agency 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 Agency, 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;

(5) The business is not operated at the displacement site solely for the purpose of renting the site to others; and

(6) The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement. (See § 24.2(a)(7).)

(b) *Determining the number of businesses.* In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

(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.

(c) *Farm operation.* A displaced farm operation (defined at § 24.2(a)(12)) may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in accordance with paragraph (e) of this section, but not less than \$1,000 nor more than \$20,000. In the case of a partial acquisition of land, which was a farm operation before the acquisition, the fixed payment shall be made only if the Agency determines that:

(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.

(d) *Nonprofit organization.* A displaced nonprofit organization may

³ The Fixed Residential Moving Cost Schedule is available at the following URL: <http://www.fhwa.dot.gov/realstate/fixsch96.htm>. Agencies are cautioned to ensure they are using the most recent edition.

choose a fixed payment of \$1,000 to \$20,000, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the Agency determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the Agency demonstrates otherwise. 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 2 years annual gross revenues less administrative expenses. (See appendix A, § 24.305(d).)

(e) *Average annual net earnings of a business or farm operation.* The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full 2 taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the 2 taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the Agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence, which the Agency determines is satisfactory. (See appendix A, § 24.305(e).)

§ 24.306 Discretionary utility relocation payments.

(a) Whenever a program or project undertaken by a displacing Agency causes the relocation of a utility facility (see § 24.2(a)(31)) and the relocation of the facility creates extraordinary expenses for its owner, the displacing Agency may, at its option, make a relocation payment to the owner for all or part of such expenses, if the following criteria are met:

(1) The utility facility legally occupies State or local government property, or property over which the State or local government has an easement or right-of-way;

(2) The utility facility's right of occupancy thereon is pursuant to State law or local ordinance specifically authorizing such use, or where such use and occupancy has been granted

through a franchise, use and occupancy permit, or other similar agreement;

(3) Relocation of the utility facility is required by and is incidental to the primary purpose of the project or program undertaken by the displacing Agency;

(4) There is no Federal law, other than the Uniform Act, which clearly establishes a policy for the payment of utility moving costs that is applicable to the displacing Agency's program or project; and

(5) State or local government reimbursement for utility moving costs or payment of such costs by the displacing Agency is in accordance with State law.

(b) For the purposes of this section, the term extraordinary expenses means those expenses which, in the opinion of the displacing Agency, are not routine or predictable expenses relating to the utility's occupancy of rights-of-way, and are not ordinarily budgeted as operating expenses, unless the owner of the utility facility has explicitly and knowingly agreed to bear such expenses as a condition for use of the property, or has voluntarily agreed to be responsible for such expenses.

(c) A relocation payment to a utility facility owner for moving costs under this section may not exceed the cost to functionally restore the service disrupted by the federally-assisted program or project, less any increase in value of the new facility and salvage value of the old facility. The displacing Agency and the utility facility owner shall reach prior agreement on the nature of the utility relocation work to be accomplished, the eligibility of the work for reimbursement, the responsibilities for financing and accomplishing the work, and the method of accumulating costs and making payment. (See appendix A, § 24.306.)

Subpart E—Replacement Housing Payments

§ 24.401 Replacement housing payment for 180-day homeowner-occupants.

(a) *Eligibility.* A displaced person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the person:

(1) Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and

(2) Purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the later of the following dates (except that the Agency may extend such one year period for good cause):

(i) The date the displaced 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 displacing Agency's obligation under § 24.204 is met.

(b) *Amount of payment.* The replacement housing payment for an eligible 180-day homeowner-occupant may not exceed \$22,500. (See also § 24.404.) The payment under this subpart is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling, or the date a comparable replacement dwelling is made available to such person, whichever is later. The payment shall be the sum of:

(1) The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined in accordance with paragraph (c) of this section;

(2) The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with paragraph (d) of this section; and

(3) The reasonable expenses incidental to the purchase of the replacement dwelling, as determined in accordance with paragraph (e) of this section.

(c) *Price differential.* (1) *Basic computation.* The price differential to be paid under paragraph (b)(1) of this section is the amount which must be added to the acquisition cost of the displacement dwelling and site (see § 24.2(a)(11)) to provide a total amount equal to the lesser of:

(i) The reasonable cost of a comparable replacement dwelling as determined in accordance with § 24.403(a); or

(ii) The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.

(2) *Owner retention of displacement dwelling.* If the owner retains ownership of his or her 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:

(i) The cost of moving and restoring the dwelling to a condition comparable to that prior to the move;

(ii) The cost of making the unit a decent, safe, and sanitary replacement dwelling (defined at § 24.2(a)(8)); and

(iii) The current market value for residential use of the replacement

dwelling site (see appendix A, § 24.401(c)(2)(iii)), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

(iv) The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment.

(d) *Increased mortgage interest costs.* The displacing Agency shall determine the factors to be used in computing the amount to be paid to a displaced person under paragraph (b)(2) of this section. 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, if not paid as incidental costs, and 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. Paragraphs (d)(1) through (d)(5) of this section shall apply to the computation of the increased mortgage interest costs payment, which payment shall be contingent upon a mortgage being placed on the replacement dwelling.

(1) The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling; however, in the event the displaced person obtains a smaller mortgage than the mortgage balance(s) computed in the buydown determination, the payment will be prorated and reduced accordingly. (See appendix A, § 24.401(d).) In the case of a home equity loan the unpaid balance shall be that balance which existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

(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:

(i) They are not paid as incidental expenses;

(ii) They do not exceed rates normal to similar real estate transactions in the area;

(iii) The Agency determines them to be necessary; and

(iv) The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of the mortgage balance under this section.

(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 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.

(e) *Incidental expenses.* The incidental expenses to be paid under paragraph (b)(3) of this section or § 24.402(c)(1) are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:

(1) Legal, closing, and related costs, including 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.

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

(5) Credit report.

(6) Owner's and mortgagee's evidence of title, e.g., title insurance, not to exceed the costs for a comparable replacement dwelling.

(7) Escrow agent's fee.

(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 Agency determine to be incidental to the purchase.

(f) *Rental assistance payment for 180-day homeowner.* A 180-day homeowner-occupant, who could be eligible for a replacement housing payment under paragraph (a) of this section but elects to rent a replacement dwelling, is eligible for a rental assistance payment. The amount of the rental assistance payment is based on a determination of market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. The difference, if any, is

computed in accordance with § 24.402(b)(1), except that the limit of \$5,250 does not apply, and disbursed in accordance with § 24.402(b)(3). Under no circumstances would the rental assistance payment exceed the amount that could have been received under § 24.401(b)(1) had the 180-day homeowner elected to purchase and occupy a comparable replacement dwelling.

§ 24.402 Replacement housing payment for 90-day occupants.

(a) *Eligibility.* A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed \$5,250 for rental assistance, as computed in accordance with paragraph (b) of this section, or downpayment assistance, as computed in accordance with paragraph (c) of this section, if such displaced person:

(1) Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

(2) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year (unless the Agency extends this period for good cause) after:

(i) For a tenant, the date he or she moves from the displacement dwelling; or

(ii) 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 full amount of the estimate of just compensation is deposited with the court; or

(B) The date he or she moves from the displacement dwelling.

(b) *Rental assistance payment.* (1) *Amount of payment.* An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed \$5,250 for rental assistance. (See § 24.404.) Such payment shall be 42 times the amount obtained by subtracting the base monthly rental 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 for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

(2) *Base monthly rental for displacement dwelling.* The base monthly rental for the displacement dwelling is the lesser of:

(i) The average monthly cost for rent and utilities at the displacement

dwelling for a reasonable period prior to displacement, as determined by the Agency (for an owner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances);

(ii) Thirty (30) percent of the displaced person's average monthly gross household income if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Programs⁴. The base monthly rental shall be established solely on the criteria in paragraph (b)(2)(i) of this section for persons with income exceeding the survey's "low income" limits, for persons refusing to provide appropriate evidence of income, and for persons who are dependents. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise; or,

(iii) The total of the amounts designated for shelter and utilities if the displaced person is receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

(3) *Manner of disbursement.* A rental assistance payment may, at the Agency's discretion, be disbursed in either a lump sum or in installments. However, except as limited by § 24.403(f), the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.

(c) *Downpayment assistance payment—*(1) *Amount of payment.* An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive under paragraph (b) of this section if the person rented a comparable replacement dwelling. At the Agency's discretion, a downpayment assistance payment that is less than \$5,250 may be increased to any amount not to exceed \$5,250. However, the payment to a displaced homeowner shall not exceed the amount the owner would receive under § 24.401(b) if he or she met the 180-day occupancy requirement. If the Agency elects to provide the maximum payment of \$5,250 as a downpayment, the Agency shall apply this discretion in a uniform and consistent manner, so that

eligible displaced persons in like circumstances are treated equally. A displaced person eligible to receive a payment as a 180-day owner-occupant under § 24.401(a) is not eligible for this payment. (See appendix A, § 24.402(c).)

(2) *Application of payment.* The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

§ 24.403 Additional rules governing replacement housing payments.

(a) *Determining cost of comparable replacement dwelling.* The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling (defined at § 24.2(a)(6)).

(1) If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling.

(2) If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site, (e.g., the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment.

(3) If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the Agency may offer to purchase the entire property. If the owner refuses to sell the remainder to the Agency, the market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

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

(5) Multiple occupants of one displacement dwelling. If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the 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.

(6) Deductions from relocation payments. An Agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The Agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

(7) Mixed-use and multifamily 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 the acquisition cost when computing the replacement housing payment.

(b) *Inspection of replacement dwelling.* Before making a replacement housing payment or releasing the initial payment from escrow, the Agency or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling as defined at § 24.2(a)(8).

(c) *Purchase of replacement dwelling.* A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

- (1) Purchases a dwelling;
- (2) Purchases and rehabilitates a substandard dwelling;
- (3) Relocates a dwelling which he or she owns or purchases;
- (4) Constructs a dwelling on a site he or she owns or purchases;
- (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 market value.

(d) *Occupancy requirements for displacement or replacement dwelling.* No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations 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 duty, or hospital stay, as determined by the Agency.

(e) *Conversion of payment.* A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under

⁴ The U.S. Department of Housing and Urban Development's Public Housing and Section 8 Program Income Limits are updated annually and are available on FHWA's Web site at <http://www.fhwa.dot.gov/realstate/ua/ualic.htm>.

§ 24.402(b) is eligible to receive a payment under § 24.401 or § 24.402(c) if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed 1-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under § 24.401 or § 24.402(c).

(f) *Payment after death.* A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

(1) The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.

(2) Any remaining payment shall be disbursed to the remaining family members of the displaced household in any case in which a member of a displaced family dies.

(3) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

(g) *Insurance proceeds.* To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (See § 24.3.)

§ 24.404 Replacement housing of last resort.

(a) *Determination to provide replacement housing of last resort.* Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, as specified in § 24.401 or § 24.402, as appropriate, the Agency shall provide additional or alternative assistance under the provisions of this subpart. Any decision to provide last resort housing assistance must be adequately justified either:

(1) On a case-by-case basis, for good cause, which means that appropriate consideration has been given to:

(i) The availability of comparable replacement housing in the program or project area;

(ii) The resources available to provide comparable replacement housing; and

(iii) The individual circumstances of the displaced person, or

(2) By a determination that:

(i) There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole;

(ii) A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and

(iii) The method selected for providing last resort housing assistance is cost effective, considering all elements, which contribute to total program or project costs.

(b) *Basic rights of persons to be displaced.* Notwithstanding any provision of this subpart, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person. No person may be deprived of any rights the person may have under the Uniform Act or this part. The Agency shall not require any displaced person to accept a dwelling provided by the Agency under these procedures (unless the Agency and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

(c) *Methods of providing comparable replacement housing.* Agencies shall have broad latitude in implementing this subpart, but implementation shall be for reasonable cost, on a case-by-case basis unless an exception to case-by-case analysis is justified for an entire project.

(1) The methods of providing replacement housing of last resort include, but are not limited to:

(i) A replacement housing payment in excess of the limits set forth in § 24.401 or § 24.402. A replacement housing payment under this section may be provided in installments or in a lump sum at the Agency's discretion.

(ii) Rehabilitation of and/or additions to an existing replacement dwelling.

(iii) The construction of a new replacement dwelling.

(iv) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest-free.

(v) The relocation and, if necessary, rehabilitation of a dwelling.

(vi) The purchase of land and/or a replacement dwelling by the displacing Agency and subsequent sale or lease to, or exchange with a displaced person.

(vii) The removal of barriers for persons with disabilities.

(2) Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on space and physical characteristics different from those in the displacement dwelling (see appendix A, § 24.404(c)), including upgraded, but smaller replacement housing that is decent, safe, and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence. In no event, however, shall a displaced person be required to move into a dwelling that is not functionally equivalent in accordance with § 24.2(a)(6)(ii) of this part.

(3) The Agency shall provide assistance under this subpart to a displaced person who is not eligible to receive a replacement housing payment under §§ 24.401 and 24.402 because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the displaced person's financial means. (See § 24.2(a)(6)(viii)(C).) Such assistance shall cover a period of 42 months.

Subpart F—Mobile Homes

§ 24.501 Applicability.

(a) *General.* This subpart describes the requirements governing the provision of replacement housing payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements of this part. Except as modified by this subpart, such a displaced person is entitled to a moving expense payment in accordance with subpart D of this part and a replacement housing payment in accordance with subpart E of this part to the same extent and subject to the same requirements as persons displaced from conventional dwellings. Moving cost payments to persons occupying mobile homes are covered in § 24.301(g)(1) through (g)(10).

(b) *Partial acquisition of mobile home park.* The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the Agency determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the occupant of the mobile home shall be considered to be a displaced person

who is entitled to relocation payments and other assistance under this part.

§ 24.502 Replacement housing payment for 180-day mobile homeowner displaced from a mobile home, and/or from the acquired mobile home site.

(a) *Eligibility.* An owner-occupant displaced from a mobile home or site is entitled to a replacement housing payment, not to exceed \$22,500, under § 24.401 if:

(1) The person occupied the mobile home on the displacement site for at least 180 days immediately before:

(i) The initiation of negotiations to acquire the mobile home, if the person owned the mobile home and the mobile home is real property;

(ii) The initiation of negotiations to acquire the mobile home site if the mobile home is personal property, but the person owns the mobile home site; or

(iii) The date of the Agency's written notification to the owner-occupant that the owner is determined to be displaced from the mobile home as described in paragraphs (a)(3)(i) through (iv) of this section.

(2) The person meets the other basic eligibility requirements at § 24.401(a)(2); and

(3) The Agency acquires the mobile home as real estate, or acquires the mobile home site from the displaced owner, or the mobile home is personal property but the owner is displaced from the mobile home because the Agency determines that the mobile home:

(i) Is not, and cannot economically be made decent, safe, and sanitary;

(ii) Cannot be relocated without substantial damage or unreasonable cost;

(iii) Cannot be relocated because there is no available comparable replacement site; or

(iv) Cannot be relocated because it does not meet mobile home park entrance requirements.

(b) *Replacement housing payment computation for a 180-day owner that is displaced from a mobile home.* The replacement housing payment for an eligible displaced 180-day owner is computed as described at § 24.401(b) incorporating the following, as applicable:

(1) If the Agency acquires the mobile home as real estate and/or acquires the owned site, the acquisition cost used to compute the price differential payment is the actual amount paid to the owner as just compensation for the acquisition of the mobile home, and/or site, if owned by the displaced mobile homeowner.

(2) If the Agency does not purchase the mobile home as real estate but the owner is determined to be displaced from the mobile home and eligible for a replacement housing payment based on paragraph (a)(1)(iii) of this section, the eligible price differential payment for the purchase of a comparable replacement mobile home, is the lesser of the displaced mobile homeowner's net cost to purchase a replacement mobile home (*i.e.*, purchase price of the replacement mobile home less trade-in or sale proceeds of the displacement mobile home); or, the cost of the Agency's selected comparable mobile home less the Agency's estimate of the salvage or trade-in value for the mobile home from which the person is displaced.

(3) If a comparable replacement mobile home site is not available, the price differential payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

(c) *Rental assistance payment for a 180-day owner-occupant that is displaced from a leased or rented mobile home site.* If the displacement mobile home site is leased or rented, a displaced 180-day owner-occupant is entitled to a rental assistance payment computed as described in § 24.402(b). This rental assistance payment may be used to lease a replacement site; may be applied to the purchase price of a replacement site; or may be applied, with any replacement housing payment attributable to the mobile home, to the purchase of a replacement mobile home or conventional decent, safe and sanitary dwelling.

(d) *Owner-occupant not displaced from the mobile home.* If the Agency determines that a mobile home is personal property and may be relocated to a comparable replacement site, but the owner-occupant elects not to do so, the owner is not entitled to a replacement housing payment for the purchase of a replacement mobile home. However, the owner is eligible for moving costs described at § 24.301 and any replacement housing payment for the purchase or rental of a comparable site as described in this section or § 24.503 as applicable.

§ 24.503 Replacement housing payment for 90-day mobile home occupants.

A displaced tenant or owner-occupant of a mobile home and/or site is eligible for a replacement housing payment, not to exceed \$5,250, under § 24.402 if:

(a) The person actually occupied the displacement mobile home on the displacement site for at least 90 days

immediately prior to the initiation of negotiations;

(b) The person meets the other basic eligibility requirements at § 24.402(a); and

(c) The Agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the Agency but the Agency determines that the occupant is displaced from the mobile home because of one of the circumstances described at § 24.502(a)(3).

Subpart G—Certification

§ 24.601 Purpose.

This subpart permits a State Agency to fulfill its responsibilities under the Uniform Act by certifying that it shall operate in accordance with State laws and regulations which shall accomplish the purpose and effect of the Uniform Act, in lieu of providing the assurances required by § 24.4 of this part.

§ 24.602 Certification application.

An Agency wishing to proceed on the basis of a certification may request an application for certification from the Lead Agency Director, Office of Real Estate Services, HEPR-1, Federal Highway Administration, 400 Seventh St. SW., Washington, DC 20590. The completed application for certification must be approved by the governor of the State, or the governor's designee, and must be coordinated with the Federal funding Agency, in accordance with application procedures.

§ 24.603 Monitoring and corrective action.

(a) The Federal Lead Agency shall, in coordination with other Federal Agencies, monitor from time to time State Agency implementation of programs or projects conducted under the certification process and the State Agency shall make available any information required for this purpose.

(b) The Lead Agency may require periodic information or data from affected Federal or State Agencies.

(c) A Federal Agency may, after consultation with the Lead Agency, and notice to and consultation with the governor, or his or her designee, rescind any previous approval provided under this subpart if the certifying State Agency fails to comply with its certification or with applicable State law and regulations. The Federal Agency shall initiate consultation with the Lead Agency at least 30 days prior to any decision to rescind approval of a certification under this subpart. The Lead Agency will also inform other Federal Agencies, which have accepted a certification under this subpart from

the same State Agency, and will take whatever other action that may be appropriate.

(d) Section 103(b)(2) of the Uniform Act, as amended, requires that the head of the Lead Agency report biennially to the Congress on State Agency implementation of section 103. To enable adequate preparation of the prescribed biennial report, the Lead Agency may require periodic information or data from affected Federal or State Agencies.

Appendix A to Part 24—Additional Information

This appendix provides additional information to explain the intent of certain provisions of this part.

Subpart A—General

Section 24.2 Definitions and Acronyms

Section 24.2(a)(6) Definition of comparable replacement dwelling. The requirement in § 24.2(a)(6)(ii) that a comparable replacement dwelling be “functionally equivalent” to the displacement dwelling means that it must perform the same function, and provide the same utility. While it need not possess every feature of the displacement dwelling, the principal features must be present.

For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a replacement dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in a garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms or, consequentially, less living space than the displacement dwelling. Such may be the case when a decent, safe, and sanitary replacement dwelling (which by definition is “adequate to accommodate” the displaced person) may be found to be “functionally equivalent” to a larger but very run-down substandard displacement dwelling. Another example is when a displaced person accepts an offer of government housing assistance and the applicable requirements of such housing assistance program require that the displaced person occupy a dwelling that has fewer rooms or less living space than the displacement dwelling.

Section 24.2(a)(6)(vii). The definition of comparable replacement dwelling requires that a comparable replacement dwelling for a person who is not receiving assistance under any government housing program before displacement must be currently available on the private market without any subsidy under a government housing program.

Section 24.2(a)(6)(ix). 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 a 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.

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

Section 24.2(a)(8)(ii) Decent, Safe and Sanitary. Many local housing and occupancy codes require the abatement of deteriorating paint, including lead-based paint and lead-based paint dust, in protecting the public health and safety. Where such standards exist, they must be honored. Even where local law does not mandate adherence to such standards, it is strongly recommended that they be considered as a matter of public policy.

Section 24.2(a)(8)(vii) Persons with a disability. Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the Agency is required to address persons with a physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The Agency shall also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person’s needs.

Section 24.2(a)(9)(ii)(D) Persons not displaced. Paragraph (a)(9)(ii)(D) of this section recognizes that there are circumstances where the acquisition, rehabilitation or demolition 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 persons” under this part, great care must be exercised to ensure that they are treated fairly and equitably. For example, if the tenant-occupant of a dwelling 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. These expenses may include moving expenses and increased housing costs during the temporary relocation. Temporary relocation should not extend beyond one year before the person is returned to his or her previous unit or location. The Agency must contact any residential tenant who has been temporarily relocated for a period beyond one year and offer all permanent relocation assistance. This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

Similarly, if a business will be shut-down for any length of time due to rehabilitation of a site, it may be temporarily relocated and reimbursed for all reasonable out of pocket expenses or must be determined to be displaced at the Agency’s option.

Any person who disagrees with the Agency’s determination that he or she is not a displaced person under this part may file an appeal in accordance with 49 CFR part 24.10 of this regulation.

Section 24.2(a)(11) Dwelling Site. This definition ensures that the computation of replacement housing payments are accurate and realistic (a) when the dwelling is located on a larger than normal site, (b) when mixed-use properties are acquired, (c) when more than one dwelling is located on the acquired property, or (d) when the replacement dwelling is retained by an owner and moved to another site.

Section 24.2(a)(14) Household income (exclusions). Household income for purposes of this regulation does not include program benefits that are not considered income by Federal law such as food stamps and the Women Infants and Children (WIC) program. For a more detailed list of income exclusions see Federal Highway Administration, Office of Real Estate Services Web site: <http://www.fhwa.dot.gov/realestate/>. (FR 4644–N–16 page 20319 Updated.) If there is a question on whether or not to include income from a specific program contact the Federal Agency administering the program.

Section 24(a)(15) Initiation of negotiations. This section provides a special definition for acquisition and displacements under Pub. L. 96–510 or Superfund. The order of activities under Superfund may differ slightly in that temporary relocation may precede acquisition. Superfund is a program designed to clean up hazardous waste sites. When such a site is discovered, it may be necessary, in certain limited circumstances, to alert individual owners and tenants to potential health or safety threats and to offer to temporarily relocate them while additional information is gathered. If a decision is later made to permanently relocate such persons, those who had been temporarily relocated under Superfund authority would no longer be on site when a formal, written offer to acquire the property was made, and thus would lose their eligibility for a replacement housing payment. In order to prevent this unfair outcome, we have provided a definition of initiation of negotiation, which is based on the date the Federal Government offers to temporarily relocate an owner or tenant from the subject property.

Section 24.2(a)(15)(iv) Initiation of negotiations (Tenants.) Tenants who occupy property that may be acquired amicably, without recourse to the use of the power of eminent domain, must be fully informed as to their eligibility for relocation assistance. This includes notifying such tenants of their potential eligibility when negotiations are initiated, notifying them if they become fully eligible, and, in the event the purchase of the property will not occur, notifying them that they are no longer eligible for relocation benefits. If a tenant is not readily accessible, as the result of a disaster or emergency, the Agency must make a good faith effort to provide these notifications and document its efforts in writing.

Section 24.2(a)(17) Mobile home. The following examples provide additional guidance on the types of mobile homes and manufactured housing that can be found acceptable as comparable replacement dwellings for persons displaced from mobile homes. A recreational vehicle that is capable of providing living accommodations may be considered a replacement dwelling if the following criteria are met: the recreational vehicle is purchased and occupied as the "primary" place of residence; it is located on a purchased or leased site and connected to or have available all necessary utilities for functioning as a housing unit on the date of the displacing Agency's inspection; and, the dwelling, as sited, meets all local, State, and Federal requirements for a decent, safe and sanitary dwelling. (The regulations of some local jurisdictions will not permit the consideration of these vehicles as decent, safe and sanitary dwellings. In those cases, the recreational vehicle will not qualify as a replacement dwelling.)

For HUD programs, mobile home is defined as "a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such terms shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act, provided by Congress in the original 1974 Manufactured Housing Act." In 1979 the term "mobile home" was changed to "manufactured home." For purposes of this regulation, the terms mobile home and manufactured home are synonymous.

When assembled, manufactured homes built after 1976 contain no less than 320 square feet. They may be single or multi-sectioned units when installed. Their designation as personalty or realty will be determined by State law. When determined to be realty, most are eligible for conventional mortgage financing.

The 1976 HUD standards distinguish manufactured homes from factory-built "modular homes" as well as conventional or "stick-built" homes. Both of these types of housing are required to meet State and local construction codes.

Section 24.3 No Duplication of Payments. This section prohibits an Agency from making a payment to a person under these regulations that would duplicate another payment the person receives under Federal, State, or local law. The Agency is not required to conduct an exhaustive search for such other payments; it is only required to avoid creating a duplication based on the Agency's knowledge at the time a payment is computed.

Subpart B—Real Property Acquisition

Federal Agencies may find that, for Federal eminent domain purposes, the terms "fair market value" (as used throughout this subpart) and "market value," which may be the more typical term in private transactions, may be synonymous.

Section 24.101(a) Direct Federal program or project. All 49 CFR Part 24 Subpart B (real property acquisition) requirements apply to all direct acquisitions for Federal programs and projects by Federal Agencies, except for acquisitions undertaken by the Tennessee Valley Authority or the Rural Utilities Service. There are no exceptions for "voluntary transactions."

Section 24.101(b)(1)(i). The term "general geographic area" is used to clarify that the "geographic area" is not to be construed to be a small, limited area.

Sections 24.101(b)(1)(iv) and (2)(ii). These sections provide that, for programs and projects receiving Federal financial assistance described in §§ 24.101(b)(1) and (2), Agencies are to inform the owner(s) in writing of the Agency's estimate of the market value for the property to be acquired.

While this part does not require an appraisal for these transactions, Agencies may still decide that an appraisal is necessary to support their determination of the market value of these properties, and, in any event, Agencies must have some reasonable basis for their determination of market value. In addition, some of the concepts inherent in Federal Program appraisal practice are appropriate for these estimates. It would be appropriate for Agencies to adhere to project influence restrictions, as well as guard against discredited "public interest value" valuation concepts.

After an Agency has established an amount it believes to be the market value of the property and has notified the owner of this amount in writing, an Agency may negotiate freely with the owner in order to reach agreement. Since these transactions are voluntary, accomplished by a willing buyer and a willing seller, negotiations may result in agreement for the amount of the original estimate, an amount exceeding it, or for a lesser amount. Although not required by the regulations, it would be entirely appropriate for Agencies to apply the administrative settlement concept and procedures in § 24.102(i) to negotiate amounts that exceed the original estimate of market value.

Agencies shall not take any coercive action in order to reach agreement on the price to be paid for the property.

Section 24.101(c) Less-than-full-fee interest in real property. This provision provides a benchmark beyond which the requirements of the subpart clearly apply to leases.

Section 24.102(c)(2) Appraisal, waiver thereof, and invitation to owner. The purpose of the appraisal waiver provision is to provide Agencies a technique to avoid the costs and time delay associated with appraisal requirements for low-value, non-complex acquisitions. The intent is that non-appraisers make the waiver valuations, freeing appraisers to do more sophisticated work.

The Agency employee making the determination to use the appraisal waiver process must have enough understanding of appraisal principles to be able to determine whether or not the proposed acquisition is low value and uncomplicated.

Waiver valuations are not appraisals as defined by the Uniform Act and these regulations; therefore, appraisal performance requirements or standards, regardless of their source, are not required for waiver valuations by this rule. Since waiver valuations are not appraisals, neither is there a requirement for an appraisal review. However, the Agency must have a reasonable basis for the waiver valuation and an Agency official must still establish an amount believed to be just compensation to offer the property owner(s).

The definition of "appraisal" in the Uniform Act and appraisal waiver provisions of the Uniform Act and these regulations are Federal law and public policy and should be considered as such when determining the impact of appraisal requirements levied by others.

Section 24.102(d) Establishment of offer of just compensation. The initial offer to the property owner may not be less than the amount of the Agency's approved appraisal, but may exceed that amount if the Agency determines that a greater amount reflects just compensation for the property.

Section 24.102(f) Basic negotiation procedures. An offer should be adequately presented to an owner, and the owner should be properly informed. Personal, face-to-face contact should take place, if feasible, but this section does not require such contact in all cases.

This section also provides that the property owner be given a reasonable opportunity to consider the Agency's offer and to present relevant material to the Agency. In order to satisfy this requirement, Agencies must allow owners time for analysis, research and development, and compilation of a response, including perhaps getting an appraisal. The needed time can vary significantly, depending on the circumstances, but thirty (30) days would seem to be the minimum time these actions can be reasonably expected to require. Regardless of project time pressures, property owners must be afforded this opportunity.

In some jurisdictions, there is pressure to initiate formal eminent domain procedures at the earliest opportunity because completing the eminent domain process, including gaining possession of the needed real

property, is very time consuming. These provisions are not intended to restrict this practice, so long as it does not interfere with the reasonable time that must be provided for negotiations, described above, and the Agencies adhere to the Uniform Act ban on coercive action (section 301(7) of the Uniform Act).

If the owner expresses intent to provide an appraisal report, Agencies are encouraged to provide the owner and/or his/her appraiser a copy of Agency appraisal requirements and inform them that their appraisal should be based on those requirements.

Section 24.102(i) Administrative settlement. This section provides guidance on administrative settlement as an alternative to judicial resolution of a difference of opinion on the value of a property, in order to avoid unnecessary litigation and congestion in the courts.

All relevant facts and circumstances should be considered by an Agency official delegated this authority. Appraisers, including review appraisers, must not be pressured to adjust their estimate of value for the purpose of justifying such settlements. Such action would invalidate the appraisal process.

Section 24.102(j) Payment before taking possession. It is intended that a right-of-entry for construction purposes be obtained only in the exceptional case, such as an emergency project, when there is no time to make an appraisal and purchase offer and the property owner is agreeable to the process.

Section 24.102(m) Fair rental. Section 301(6) of the Uniform Act limits what an Agency may charge when a former owner or previous occupant of a property is permitted to rent the property for a short term or when occupancy is subject to termination by the Agency on short notice. Such rent may not exceed "the fair rental value of the property to a short-term occupier." Generally, the Agency's right to terminate occupancy on short notice (whether or not the renter also has that right) supports the establishment of a lesser rental than might be found in a longer, fixed-term situation.

Section 24.102(n) Conflict of interest. The overall objective is to minimize the risk of fraud while allowing Agencies to operate as efficiently as possible. There are three parts to this provision.

The first provision is the prohibition against having any interest in the real property being valued by the appraiser (for an appraisal), the valuer (for a waiver estimate) or the review appraiser (for an appraisal review.)

The second provision is that no person functioning as a negotiator for a project or program can supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work for that project or program. The intent of this provision is to ensure appraisal/valuation independence and to prevent inappropriate influence. It is not intended to prevent Agencies from providing appraisers/valuers with appropriate project information and participating in determining the scope of work for the appraisal or valuation. For a program or project receiving Federal financial assistance, the Federal funding

Agency may waive this requirement if it would create a hardship for the Agency. The intent is to accommodate Federal-aid recipients that have a small staff where this provision would be unworkable.

The third provision is to minimize situations where administrative costs exceed acquisition costs. Section 24.102(n) also provides that the same person may prepare a valuation estimate (including an appraisal) and negotiate that acquisition, if the valuation estimate amount is \$10,000 or less. However, it should be noted that this exception for properties valued at \$10,000 or less is not mandatory, e.g., Agencies are not required to use those who prepare a waiver valuation or appraisal of \$10,000 or less to negotiate the acquisition, and, all appraisals must be reviewed in accordance with § 24.104. This includes appraisals of real property valued at \$10,000 or less.

Section 24.103 Criteria for Appraisals. The term "requirements" is used throughout this section to avoid confusion with The Appraisal Foundation's Uniform Standards of Professional Appraisal Practice (USPAP) "standards." Although this section discusses appraisal requirements, the definition of "appraisal" itself at § 24.2(a)(3) includes appraisal performance requirements that are an inherent part of this section.

The term "Federal and federally-assisted program or project" is used to better identify the type of appraisal practices that are to be referenced and to differentiate them from the private sector, especially mortgage lending, appraisal practice.

Section 24.103(a) Appraisal requirements. The first sentence instructs readers that requirements for appraisals for Federal and federally-assisted programs or projects are located in 49 CFR part 24. These are the basic appraisal requirements for Federal and federally-assisted programs or projects. However, Agencies may enhance and expand on them, and there may be specific project or program legislation that references other appraisal requirements.

These appraisal requirements are necessarily designed to comply with the Uniform Act and other Federal eminent domain based appraisal requirements. They are also considered to be consistent with Standards Rules 1, 2, and 3 of the 2004 edition of the USPAP. Consistency with USPAP has been a feature of these appraisal requirements since the beginning of USPAP. This "consistent" relationship was more formally recognized in OMB Bulletin 92-06. While these requirements are considered consistent with USPAP, neither can supplant the other; their provisions are neither identical, nor interchangeable. Appraisals performed for Federal and federally-assisted real property acquisition must follow the requirements in this regulation. Compliance with any other appraisal requirements is not the purview of this regulation. An appraiser who is committed to working within the bounds of USPAP should recognize that compliance with both USPAP and these requirements may be achieved by using the Supplemental Standards Rule and the Jurisdictional Exception Rule of USPAP, where applicable.

The term "scope of work" defines the general parameters of the appraisal. It reflects

the needs of the Agency and the requirements of Federal and federally-assisted program appraisal practice. It should be developed cooperatively by the assigned appraiser and an Agency official who is competent to both represent the Agency's needs and respect valid appraisal practice. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised, and if it is market value, its applicable definition, and the assumptions and limiting conditions affecting the appraisal. It may include parameters for the data search and identification of the technology, including approaches to value, to be used to analyze the data. The scope of work should consider the specific requirements in 49 CFR 24.103(a)(1) through (5) and address them as appropriate.

Section 24.103(a)(1). The appraisal report should identify the items considered in the appraisal to be real property, as well as those identified as personal property.

Section 24.103(a)(2). All relevant and reliable approaches to value are to be used. However, where an Agency determines that the sales comparison approach will be adequate by itself and yield credible appraisal results because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the sales comparison approach. This should be reflected in the scope of work.

Section 24.103(b) Influence of the project on just compensation. As used in this section, the term "project" means an undertaking which is planned, designed, and intended to operate as a unit.

When the public is aware of the proposed project, project area property values may be affected. Therefore, property owners should not be penalized because of a decrease in value caused by the proposed project nor reap a windfall at public expense because of increased value created by the proposed project.

Section 24.103(d)(1). The appraiser and review appraiser must each be qualified and competent to perform the appraisal and appraisal review assignments, respectively. Among other qualifications, State licensing or certification and professional society designations can help provide an indication of an appraiser's abilities.

Section 24.104 Review of appraisals. The term "review appraiser" is used rather than "reviewing appraiser," to emphasize that "review appraiser" is a separate specialty and not just an appraiser who happens to be reviewing an appraisal. Federal Agencies have long held the perspective that appraisal review is a unique skill that, while it certainly builds on appraisal skills, requires more. The review appraiser should possess both appraisal technical abilities and the ability to be the two-way bridge between the Agency's real property valuation needs and the appraiser.

Agency review appraisers typically perform a role greater than technical appraisal review. They are often involved in early project development. Later they may be involved in devising the scope of work statements and participate in making

appraisal assignments to fee and/or staff appraisers. They are also mentors and technical advisors, especially on Agency policy and requirements, to appraisers, both staff and fee. Additionally, review appraisers are frequently technical advisors to other Agency officials.

Section 24.104(a). This paragraph states that the review appraiser is to review the appraiser's presentation and analysis of market information and that it is to be reviewed against § 24.103 and other applicable requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. The appraisal review is to be a technical review by an appropriately qualified review appraiser. The qualifications of the review appraiser and the level of explanation of the basis for the review appraiser's recommended (or approved) value depend on the complexity of the appraisal problem. If the initial appraisal submitted for review is not acceptable, the review appraiser is to communicate and work with the appraiser to the greatest extent possible to facilitate the appraiser's development of an acceptable appraisal.

In doing this, the review appraiser is to remain in an advisory role, not directing the appraisal, and retaining objectivity and options for the appraisal review itself.

If the Agency intends that the staff review appraiser approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), or establish the amount the Agency believes is just compensation, she/he must be specifically authorized by the Agency to do so. If the review appraiser is not specifically authorized to approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), or establish the amount believed to be just compensation, that authority remains with another Agency official.

Section 24.104(b). In developing an independent approved or recommended value, the review appraiser may reference any acceptable resource, including acceptable parts of any appraisal, including an otherwise unacceptable appraisal. When a review appraiser develops an independent value, while retaining the appraisal review, that independent value also becomes the approved appraisal of the fair market value for Uniform Act Section 301(3) purposes. It is within Agency discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report or reports on the property.

Section 24.104(c). Before acceptance of an appraisal, the review appraiser must determine that the appraiser's documentation, including valuation data and analysis of that data, demonstrates the soundness of the appraiser's opinion of value. For the purposes of this part, an acceptable appraisal is any appraisal that, on its own, meets the requirements of § 24.103. An approved appraisal is the one acceptable appraisal that is determined to best fulfill the requirement to be the basis for the amount believed to be just compensation. Recognizing that appraisal is not an exact

science, there may be more than one acceptable appraisal of a property, but for the purposes of this part, there can be only one approved appraisal.

At the Agency's discretion, for a low value property requiring only a simple appraisal process, the review appraiser's recommendation (or approval), endorsing the appraiser's report, may be determined to satisfy the requirement for the review appraiser's signed report and certification.

Section 24.106(b). *Expenses incidental to transfer of title to the agency.* Generally, the Agency is able to pay such incidental costs directly and, where feasible, is required to do so. In order to prevent the property owner from making unnecessary out-of-pocket expenditures and to avoid duplication of expenses, the property owner should be informed early in the acquisition process of the Agency's intent to make such arrangements. Such expenses must be reasonable and necessary.

Subpart C—General Relocation Requirements

Section 24.202 Applicability and Section 205(c) Services to be provided. In extraordinary circumstances, when a displaced person is not readily accessible, the Agency must make a good faith effort to comply with these sections and document its efforts in writing.

Section 24.204 Availability of comparable replacement dwelling before displacement.

Section 24.204(a) General. This provision requires that no one may be required to move from a dwelling without a comparable replacement dwelling having been made available. In addition, § 24.204(a) requires that, "where possible, three or more comparable replacement dwellings shall be made available." Thus, the basic standard for the number of referrals required under this section is three. Only in situations where three comparable replacement dwellings are not available (e.g., when the local housing market does not contain three comparable dwellings) may the Agency make fewer than three referrals.

Section 24.205 Relocation assistance advisory services. Section 24.205(c)(2)(ii)(D) emphasizes that if the comparable replacement dwellings are located in areas of minority concentration, minority persons should, if possible, also be given opportunities to relocate to replacement dwellings not located in such areas.

Section 24.206 Eviction for cause. An eviction related to non-compliance with a requirement related to carrying out a project (e.g., failure to move or relocate when instructed, or to cooperate in the relocation process) shall not negate a person's entitlement to relocation payments and other assistance set forth in this part.

Section 24.207 General Requirements—Claims for relocation payments. Section 24.207(a) allows an Agency to make a payment for low cost or uncomplicated nonresidential moves without additional documentation, as long as the payment is limited to the amount of the lowest acceptable bid or estimate, as provided for in § 24.301(d)(1).

While § 24.207(f) prohibits an Agency from proposing or requesting that a displaced

person waive his or her rights or entitlements to relocation assistance and payments, an Agency may accept a written statement from the displaced person that states that they have chosen not to accept some or all of the payments or assistance to which they are entitled. Any such written statement must clearly show that the individual knows what they are entitled to receive (a copy of the Notice of Eligibility which was provided may serve as documentation) and their statement must specifically identify which assistance or payments they have chosen not to accept. The statement must be signed and dated and may not be coerced by the Agency.

Subpart D—Payment for Moving and Related Expenses

Section 24.301. Payment for Actual Reasonable Moving and Related Expenses.

Section 24.301(e) Personal property only. Examples of personal property only moves might be: personal property that is located on a portion of property that is being acquired, but the business or residence will not be taken and can still operate after the acquisition; personal property that is located in a mini-storage facility that will be acquired or relocated; personal property that is stored on vacant land that is to be acquired.

For a nonresidential personal property only move, the owner of the personal property has the options of moving the personal property by using a commercial mover or a self-move.

If a question arises concerning the reasonableness of an actual cost move, the acquiring Agency may obtain estimates from qualified movers to use as the standard in determining the payment.

Section 24.301 (g)(14)(i) and (ii). 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-required betterments or upgrades that may apply at the replacement site. As prescribed in the regulation, the allowable in-place value estimate (§ 24.301(g)(14)(i)) and moving cost estimate (§ 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 for machinery or equipment that is not operable or not installed at the displacement site.

Section 24.301(g)(17) Searching expenses. In special cases where the displacing Agency determines it to be reasonable and necessary, certain additional categories of searching costs may be considered for reimbursement. These include those costs involved in investigating potential replacement sites and the time of the business owner, based on salary or earnings, required to apply for licenses or permits, zoning changes, and attendance at zoning hearings. Necessary attorney fees required to obtain such licenses or permits are also reimbursable. Time spent in negotiating the purchase of a replacement business site is also reimbursable based on a reasonable salary or earnings rate. In those instances when such additional costs to

investigate and acquire the site exceed \$2,500, the displacing Agency may consider waiver of the cost limitation under the § 24.7, waiver provision. Such a waiver should be subject to the approval of the Federal-funding Agency in accordance with existing delegation authority.

Section 24.303(b) Professional Services. If a question should arise as to what is a "reasonable hourly rate," the Agency should compare the rates of other similar professional providers in that area.

Section 24.305 Fixed Payment for Moving Expenses—Nonresidential Moves.

Section 24.305(d) Nonprofit organization. Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enables 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 fundraising expenses. Operating expenses for carrying out the purposes of the nonprofit organization are not included in administrative expenses. The monetary receipts and expense amounts may be verified with certified financial statements or financial documents required by public Agencies.

Section 24.305(e) Average annual net earnings of a business or farm operation. If the average annual net earnings of the displaced business, farm, or nonprofit organization are determined to be less than \$1,000, even \$0 or a negative amount, the minimum payment of \$1,000 shall be provided.

Section 24.306 Discretionary Utility Relocation Payments. Section 24.306(c) describes the issues that the Agency and the utility facility owner must agree to in determining the amount of the relocation payment. To facilitate and aid in reaching such agreement, the practices in the Federal Highway Administration regulation, 23 CFR part 645, subpart A, Utility Relocations, Adjustments and Reimbursement, should be followed.

Subpart E—Replacement Housing Payments

Section 24.401 Replacement Housing Payment for 180-day Homeowner-Occupants.

Section 24.401(a)(2). An extension of eligibility may be granted if some event beyond the control of the displaced person such as acute or life threatening illness, bad weather preventing the completion of construction, or physical modifications required for reasonable accommodation of a replacement dwelling, or other like circumstances causes a delay in occupying a decent, safe, and sanitary replacement dwelling.

Section 24.401(c)(2)(iii) Price differential. The provision in § 24.401(c)(2)(iii) to use the current market value for residential use does not mean the Agency must have the property appraised. Any reasonable method for arriving at the market value may be used.

Section 24.401(d) Increased mortgage interest costs. The provision in § 24.401(d) sets forth the factors to be used in computing the payment that will be required to reduce a person's replacement mortgage (added to

the downpayment) to an amount which can be amortized at the same monthly payment for principal and interest over the same period of time as the remaining term on the displacement mortgages. This payment is commonly known as the "buydown."

The Agency must know the remaining principal balance, the interest rate, and monthly principal and interest payments for the old mortgage as well as the interest rate, points and term for the new mortgage to compute the increased mortgage interest costs. If the combination of interest and points for the new mortgage exceeds the current prevailing fixed interest rate and points for conventional mortgages and there is no justification for the excessive rate, then the current prevailing fixed interest rate and points shall be used in the computations. Justification may be the unavailability of the current prevailing rate due to the amount of the new mortgage, credit difficulties, or other similar reasons.

SAMPLE COMPUTATION

Old Mortgage:	
Remaining Principal Balance	\$50,000
Monthly Payment (principal and interest)	\$458.22
Interest rate (percent)	7
New Mortgage:	
Interest rate (percent)	10
Points	3
Term (years)	15

Remaining term of the old mortgage is determined to be 174 months. Determining, or computing, the actual remaining term is more reliable than using the data supplied by the mortgagee. However, if it is shorter, use the term of the new mortgage and compute the needed monthly payment.

Amount to be financed to maintain monthly payments of \$458.22 at 10% = \$42,010.18.

Calculation:	
Remaining Principal Balance	\$50,000.00
Minus Monthly Payment (principal and interest)	- 42,010.18
Increased mortgage interest costs	7,989.82
3 points on \$42,010.18	1,260.31
Total buydown necessary to maintain payments at \$458.22/month	9,250.13

If the new mortgage actually obtained is less than the computed amount for a new mortgage (\$42,010.18), the buydown shall be prorated accordingly. If the actual mortgage obtained in our example were \$35,000, the buydown payment would be \$7,706.57 (\$35,000 divided by \$42,010.18 = .8331; \$9,250.13 multiplied by .83 = \$7,706.57).

The Agency is obligated to inform the displaced person of the approximate amount

of this payment and that the displaced person must obtain a mortgage of at least the same amount as the old mortgage and for at least the same term in order to receive the full amount of this payment. The Agency must advise the displaced person of the interest rate and points used to calculate the payment.

Section 24.402 Replacement Housing Payment for 90-day Occupants

Section 24.402(b)(2) Low income calculation example. The Uniform Act requires that an eligible displaced person who rents a replacement dwelling is entitled to a rental assistance payment calculated in accordance with § 24.402(b). One factor in this calculation is to determine if a displaced person is "low income," as defined by the U.S. Department of Housing and Urban Development's annual survey of income limits for the Public Housing and Section 8 Programs. To make such a determination, the Agency must: (1) Determine the total number of members in the household (including all adults and children); (2) locate the appropriate table for income limits applicable to the Uniform Act for the state in which the displaced residence is located (found at: <http://www.fhwa.dot.gov/realestate/ua/ualic.htm>); (3) from the list of local jurisdictions shown, identify the appropriate county, Metropolitan Statistical Area (MSA)*, or Primary Metropolitan Statistical Area (PMSA)* in which the displacement property is located; and (4) locate the appropriate income limit in that jurisdiction for the size of this displaced person/family. The income limit must then be compared to the household income (§ 24.2(a)(15)) which is the gross annual income received by the displaced family, excluding income from any dependent children and full-time students under the age of 18. If the household income for the eligible displaced person/family is less than or equal to the income limit, the family is considered "low income." For example:

Tom and Mary Smith and their three children are being displaced. The information obtained from the family and verified by the Agency is as follows:

Tom Smith, employed, earns \$21,000/yr.
Mary Smith, receives disability payments of \$6,000/yr.

Tom Smith Jr., 21, employed, earns \$10,000/yr.

Mary Jane Smith, 17, student, has a paper route, earns \$3,000/yr. (Income is not included because she is a dependent child and a full-time student under 18)

Sammie Smith, 10, full-time student, no income.

Total family income for 5 persons is: \$21,000 + \$6,000 + \$10,000 = \$37,000

The displacement residence is located in the State of Maryland, Caroline County. The low income limit for a 5 person household is: \$47,450. (2004 Income Limits)

This household is considered "low income."

* A complete list of counties and towns included in the identified MSAs and PMSAs can be found under the bulleted item "Income Limit Area Definition" posted on the FHWA's Web site at: <http://www.fhwa.dot.gov/realestate/ua/ualic.htm>.

Section 24.402(c) Downpayment assistance. The downpayment assistance provisions in § 24.402(c) limit such assistance to the amount of the computed rental assistance payment for a tenant or an eligible homeowner. It does, however, provide the latitude for Agency discretion in offering downpayment assistance that exceeds the computed rental assistance payment, up to the \$5,250 statutory maximum. This does not mean, however, that such Agency discretion may be exercised in a selective or discriminatory fashion. The displacing Agency should develop a policy that affords equal treatment for displaced persons in like circumstances and this policy should be applied uniformly throughout the Agency's programs or projects.

For the purpose of this section, should the amount of the rental assistance payment exceed the purchase price of the replacement dwelling, the payment would be limited to the cost of the dwelling.

Section 24.404 Replacement Housing of Last Resort.

Section 24.404(b) Basic rights of persons to be displaced. This paragraph affirms the right of a 180-day homeowner-occupant, who is eligible for a replacement housing payment under § 24.401, to a reasonable opportunity to purchase a comparable replacement dwelling. However, it should be read in conjunction with the definition of "owner of a dwelling" at § 24.2(a)(20). The Agency is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than the Agency would be required to provide such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the Agency may provide additional purchase assistance or rental assistance.

Section 24.404(c) Methods of providing comparable replacement housing. This Section emphasizes the use of cost effective means of providing comparable replacement housing. The term "reasonable cost" is used to highlight the fact that while innovative means to provide housing are encouraged, they should be cost-effective. Section 24.404(c)(2) permits the use of last resort housing, in special cases, which may involve variations from the usual methods of obtaining comparability. However, such variation should never result in a lowering of housing standards nor should it ever result in a lower quality of living style for the displaced person. The physical characteristics of the comparable replacement dwelling may be dissimilar to those of the displacement dwelling but they may never be inferior.

One example might be the use of a new mobile home to replace a very substandard conventional dwelling in an area where comparable conventional dwellings are not available.

Another example could be the use of a superior, but smaller, decent, safe and sanitary dwelling to replace a large, old substandard dwelling, only a portion of

which is being used as living quarters by the occupants and no other large comparable dwellings are available in the area.

Appendix B to Part 24—Statistical Report Form

This Appendix sets forth the statistical information collected from Agencies in accordance with § 24.9(c).

General

1. *Report coverage.* This report covers all relocation and real property acquisition activities under a Federal or a federally-assisted project or program subject to the provisions of the Uniform Act. If the exact numbers are not easily available, an Agency may provide what it believes to be a reasonable estimate.

2. *Report period.* Activities shall be reported on a Federal fiscal year basis, *i.e.*, October 1 through September 30.

3. *Where and when to submit report.* Submit a copy of this report to the lead Agency as soon as possible after September 30, but NOT LATER THAN NOVEMBER 15. Lead Agency address: Federal Highway Administration, Office of Real Estate Services (HEPR), Room 3221, 400 7th Street SW., Washington, DC 20590.

4. *How to report relocation payments.* The full amount of a relocation payment shall be reported as if disbursed in the year during which the claim was approved, regardless of whether the payment is to be paid in installments.

5. *How to report dollar amounts.* Round off all money entries in Parts of this section A, B and C to the nearest dollar.

6. *Regulatory references.* The references in Parts A, B, C and D of this section indicate the subpart of the regulations pertaining to the requested information.

Part A. Real property acquisition under The Uniform Act

Line 1. Report all parcels acquired during the report year where title or possession was vested in the Agency during the reporting period. The parcel count reported should relate to ownerships and not to the number of parcels of different property interests (such as fee, perpetual easement, temporary easement, etc.) that may have been part of an acquisition from one owner. For example, an acquisition from a property that includes a fee simple parcel, a perpetual easement parcel, and a temporary easement parcel should be reported as 1 parcel not 3 parcels. (Include parcels acquired without Federal financial assistance, if there was or will be Federal financial assistance in other phases of the project or program.)

Line 2. Report the number of parcels reported on Line 1 that were acquired by condemnation. Include those parcels where compensation for the property was paid, deposited in court, or otherwise made available to a property owner pursuant to applicable law in order to vest title or possession in the Agency through condemnation authority.

Line 3. Report the number of parcels in Line 1 acquired through administrative

settlement where the purchase price for the property exceeded the amount offered as just compensation and efforts to negotiate an agreement at that amount have failed.

Line 4. Report the total of the amounts paid, deposited in court, or otherwise made available to a property owner pursuant to applicable law in order to vest title or possession in the Agency in Line 1.

Part B. Residential Relocation Under the Uniform Act

Line 5. Report the number of households who were permanently displaced during the fiscal year by project or program activities and moved to their replacement dwelling. The term "households" includes all families and individuals. A family shall be reported as "one" household, *not* by the number of people in the family unit.

Line 6. Report the total amount paid for residential moving expenses (actual expense and fixed payment).

Line 7. Report the total amount paid for residential replacement housing payments including payments for replacement housing of last resort provided pursuant to § 24.404 of this part.

Line 8. Report the number of households in Line 5 who were permanently displaced during the fiscal year by project or program activities and moved to their replacement dwelling as part of last resort housing assistance.

Line 9. Report the number of tenant households in Line 5 who were permanently displaced during the fiscal year by project or program activities, and who purchased and moved to their replacement dwelling using a downpayment assistance payment under this part.

Line 10. Report the total sum costs of residential relocation expenses and payments (excluding Agency administrative expenses) in Lines 6 and 7.

Part C. Nonresidential Relocation Under the Uniform Act

Line 11. Report the number of businesses, nonprofit organizations, and farms who were permanently displaced during the fiscal year by project or program activities and moved to their replacement location. This includes businesses, nonprofit organizations, and farms, that upon displacement, discontinued operations.

Line 12. Report the total amount paid for nonresidential moving expenses (actual expense and fixed payment.)

Line 13. Report the total amount paid for nonresidential reestablishment expenses.

Line 14. Report the total sum costs of nonresidential relocation expenses and payments (excluding Agency administrative expenses) in Lines 12 and 13.

Part D. Relocation Appeals

Line 15. Report the total number of relocation appeals filed during the fiscal year by aggrieved persons (residential and nonresidential).

BILLING CODE 4910-22-P

FEDERAL FISCAL YEAR ENDING SEPT. 30, 20 _____
 REPORTING AGENCY: _____
 STATE: _____
 CITY/COUNTY (For Local Government Agencies): _____
 FEDERAL FUNDING AGENCY: _____

PART A. REAL PROPERTY ACQUISITION UNDER THE UNIFORM ACT	
1) Total Number of Parcels Acquired (Ownerships)	
2) Number of Parcels in Line 1 Acquired by Condemnation	
3) Number of Parcels in Line 1 Acquired by Administrative Settlement (Above initial offer –see 24.102(i))	
4) Compensation – Total Costs (Including 24.106; Excluding appraisal costs, negotiator fees and other administrative expenses)	
PART B. RESIDENTIAL RELOCATION UNDER THE UNIFORM ACT	
5) Total Number of Residential Displacements (Households)	
6) Residential Moving Payments – Total Costs	
7) Replacement Housing Payments – Total Costs	
8) Number of Last Resort Housing Displacements in Line 5 (Households)	
9) Number of Tenants converted to Homeowners in Line 5 (Households using 24.402(c))	
10) Total Costs for Residential Relocation Expenses and Payments (Sum of lines 6 and 7; excluding Agency Administrative Costs)	
PART C. NONRESIDENTIAL RELOCATION UNDER THE UNIFORM ACT	
11) Total Number of NonResidential Displacements	
12) NonResidential Moving Payments – Total Costs (Including 24.305)	
13) NonResidential Reestablishment Payments – Total Costs	
14) Total Costs for Nonresidential Relocation Expenses and Payments (Sum of lines 12 and 13; excluding Agency Administrative Costs)	
PART D. RELOCATION APPEALS UNDER THE UNIFORM ACT	
15) Total Number of Relocation Appeals (Residential & NonResidential)	

SECTION 8: ATTORNEY CERTIFICATION OF REAL ESTATE

SPONSOR LETTER HEAD

Date
Commander
US Army Corps of Engineers
Mobile District
ATTN: CESAM-RE-P
109 St. Joseph Street
Mobile, AL 36602
Subject: Project Name
Certification of Real Estate

Dear Sir/Madam:

The (sponsor's name), by and through its City/County Attorney, hereby certifies that it has acquired sufficient title or interest in the lands, easements and rights-of-way which are within the _____ Project, and located in _____ County, _____, as required for construction of that project by the U.S. Army Corps of Engineers.

The undersigned further certifies that said municipality has complied with the applicable provisions of the uniform Relocations Assistance and Real Property Acquisition Policies Act of 1970, public law 91-646, approved January 2, 1971, in its acquisition of said lands, easements and rights-of-way initiated on or after (date PPA was signed), the effective date of the Project Partnership Agreement between said municipality and the Corps of Engineers, in accordance with Article ____ of said agreement. There has been no required relocation of persons and/or businesses.

TITLE AND SIGNATURE

SECTION 9: AUTHORIZATION FOR ENTRY FOR CONSTRUCTION

AUTHORIZATION FOR ENTRY FOR CONSTRUCTION

I, _____, _____ for the
(Name of accountable official) (Title)

(Sponsor Name), do hereby certify that the (Sponsor Name) has acquired the real property interest required by the Department of the Army, and otherwise is vested with sufficient title and interest in lands to support construction for (Project Name, Specifically identified project features, etc.). Further, I hereby authorize the Department of the Army, its agents, employees and contractors, to enter upon _____
(identify tracts)

To construct (Project Name, Specifically identified project features, etc.) as set forth in the plans and specifications held in the U. S. Army Corps of Engineers' (district, city, state) to include abiding by all State Historical Preservation Office requirements referenced in the plans and specifications.

WITNESS my signature as _____ for the
(Title)

(Sponsor Name) this _____ day of _____, 20_____.

BY: _____
(Name)

(Title)

ATTORNEY'S CERTIFICATE OF AUTHORITY

I, _____, _____ for the
(Name) (Title of legal officer)

(Sponsor Name), certify that _____ has authority to grant
(Name of accountable official)

Authorization for Entry; that said Authorization for Entry is executed by the proper duly authorized officer; and that the Authorization for Entry is in sufficient form to grant the authorization therein stated.

WITNESS my signature as _____ for the
(Title)

(Sponsor Name), this _____ day of _____, 20_____.

BY: _____
(Name)

(Title)

SECTION 10: CLAIM FOR CREDIT FOR ACQUISITION EXPENSES PER TRACT

(Claim shall be submitted on Sponsor Letterhead or appropriate Sponsor cover sheet)

Claim for Credit
For
Acquisition Expenses per Tract

To: Department of the Army
U.S. Army Corps of Engineers, Mobile District
Attn: _____
CESAM-RE-P
P O Box 2288
Mobile AL 36628

Tract Number: _____
Owner: _____
Tenant(s): _____
Tract Address: _____

- 1. Purchase Price** \$ _____
 - 2. Appraisal Fee** _____
 - 3. Title:**
 - a. Preliminary Title Evidence/Commitment _____
 - b. Supplementary Title Evidence/Commitment _____
 - c. Final Title Evidence/Policy _____
 - 4. Closing Cost:**
 - a. Recording Fees _____
 - b. State Tax/Stamps _____
 - c. Other _____
 - 5. Other Acquisition Expenses Incurred:**
 - a. _____ _____
 - b. _____ _____
 - c. _____ _____
- TOTAL CLAIMED** \$ _____

This is to certify that the above expenditures have been paid by the _____ for acquisition of the above tract. Also, these expenditures are not allocable to or included as a cost of any other federally financed program in either the current or prior period. The total claimed herein is supported by attached receipts, canceled checks, vouchers, and/or other pertinent documents verifying the official claim.

Seal:

Authorizing Official for Sponsor

Date

CHECKLIST
Required Documentation for Acquisition Claim
 Tract Number _____

- 1. Appraisal Fees: _____
 - a. Appraisal _____
 - b. Review and Approval _____
 - c. Appraiser's billing invoice _____

- 2. Purchase Price: _____
 - a. Letter of Intent to Acquire _____
 - b. Executed Offer to Purchase _____
 - c. Salvage Value (if applicable) _____
 - d. Recorded Deed _____
 - f. Closing Statement _____
 - g. Copy of Both Sides of Check(s) _____

- 3. Title Evidence:
 - a. Preliminary Title Commitment _____
 - b. Supplementary Title Commitment _____
 - c. Final Title Evidence / Policy _____

- 4. Closing Costs:
 - a. Bills from Recorder _____
 - b. Other Closing Expenses _____

- 5. Other:
 - a. Survey / Legal Description _____
 - b. Proof of Payment(s) _____

Date: _____ Sponsor's Signature: _____

For Corps of Engineers (Real Estate Division) Use Only

Documentation Package will be maintained in Real Estate Division for at least 3 years after the cost share project is financially closed. A copy of this check list and the claim form will be forwarded to USACE Finance and Accounting.

Date: _____ RE Signature: _____

Verification of receipt of documents

Note: This checklist should always be attached to the Claim for Credit – Acquisition Expenses per Tract form in order to confirm that all documentation is accounted for.

SECTION 11: CLAIM FOR CREDIT FOR RELOCATION EXPENSES PER TRACT

(Claim shall be submitted on Sponsor Letterhead or Appropriate Sponsor Cover Sheet)

Claim for Credit
For
Relocation Expenses

To: Department of the Army
U.S. Army Corps of Engineers, Mobile District
Attn: _____
CESAM-RE-P
P O Box 2288
Mobile AL 36628

Tract Number: _____
Owner: _____
Tenant(s): _____
Tract Address: _____

- | | |
|---|----------|
| 1. Replacement Housing/Rental Supplement | \$ _____ |
| 2. Interest Differential | _____ |
| 3. Closing Costs: | |
| a. Legal, closing & related costs (Including title search/insurance, notary fees, surveys, and recordation, etc...) | _____ |
| b. Lenders, FHA or VA appraisal fee | _____ |
| c. FHA or VA application fee | _____ |
| d. Credit report | _____ |
| e. Escrow agent's fee / Closing fee | _____ |
| f. State stamps & sale/transfer taxes | _____ |
| g. Other | _____ |
| 4. Moving Expenses | _____ |

TOTAL CLAIMED \$ _____

This is to certify that the above expenditures have been paid by the _____ for acquisition of the above tract. Also, these expenditures are not allocable to or included as a cost of any other federally financed program in either the current or prior period. The total claimed herein is supported by attached receipts, canceled checks, vouchers, and/or other pertinent documents verifying the official claim.

Seal:

Authorizing Official for Sponsor

Date

CHECKLIST

Documentation for Relocation Claim

For

Tract Number _____

Owner _____ Tenant _____

1. Replacement Housing

- a. Comparable Replacement Housing Form (purchase or rental) _____
- b. Deed to replacement house _____
- c. Documentation of expenses for Purchase, construction and/or Rehabilitation of replacement House _____
- d. Displaced persons' claim (Rental Assistance, Housing Payment Down payment) _____
- e. Certification that replacement housing is DSS _____
- f. Copy of lease or rent receipt _____
- g. Closing forms (Settlement Statement) _____
- h. Interest differential and calculation /documentation of old & new mortgage terms _____
- i. Invoices for incidental expenses not on closing statement _____

2. Moving Expenses (Actual)

- a. Displaced persons' claim form _____
- b. Commercial movers estimates _____
- c. Invoices for commercial move, other moving expenses, disconnect and reconnect charges _____
- d. Documentation of expenses for self move _____
- e. Certified inventory for commercial move _____

3. Moving Expenses (Fixed)

- a. Personal move claim form _____
- b. Documents to support fixed payment for business move _____

Date: _____ Sponsor's Signature: _____

For Corps of Engineers (Real Estate Division) Use Only

Documentation Package will be maintained in Real Estate Division for at least 3 years after the cost share project is financially closed. A copy of this check list and the claim form will be forwarded to USACE Finance and Accounting.

Date: _____ RE Signature: _____

Verification of receipt of documents

Note: This checklist should always be attached to the Claim for Credit – Relocation Expenses per Tract form in order to confirm that all documentation is accounted for.

SECTION 12: CREDIT TRACKING SHEET

*Note: While Sections 10 & 11 provides specific documentation for per tract crediting, this spreadsheet is a valuable tracking tool that provides a **comprehensive** view of the total acquisition project for crediting purposes.*

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S
1	LERRD CREDIT ACCOUNTING SUMMARY FOR NON FEDERAL SPONSOR																		
2																			
3	PROJECT NAME:																		
4																			
5	Non-Federal Sponsor Project Manager:																		
6																			
7	Acquisition Beginning Date:																		
8	Acquisition Ending Date:																		
9	Item	Total Tracts (Specify Fee or Easement) Acquired	# of Tract Appraisals	Invoiced Cost	# of Surveys /Legal Descr./MHW/Construction Lines etc...	Invoiced Cost	Preliminary Title Certification or Title Commitment	Invoiced Cost	Document Preparation - # Tracts	Invoiced Cost	Final Title Certification or title policy	Invoiced Cost	Condemnations Filed	Invoiced Cost	# of Relocations P.L. 91-646	Invoiced Cost	Retainage	NFS Attorney Admin (i.e. negotiations/closings etc.	TOTAL
10																			
11	Invoice #1 - Appraisal Contract																		
12	Invoice #2 - Survey retainage																		
13	Invoice #3 - Prelim. Title retainage																		
14	Invoice #4 - Etc...																		
15	Invoice #5																		
16	Invoice #6																		
17	Invoice #7																		
18	Invoice #8																		
19	Invoice #9																		
20	NFS Attorney Administrative Fees																		
21																			
22	TOTAL																		

SECTION 13: ENG 4660-R (ANNUAL REPORT ON RELOCATION AND ACQUISITION ACTIVITIES)

*

ANNUAL REPORT ON RELOCATION AND REAL PROPERTY ACQUISITION ACTIVITIES—FEDERALLY ASSISTED PROJECTS (UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970—PL 91-646) For use of this form, see ER 405-1-11 and EP 405-1-2.		REQUIREMENTS 16 Oct 78 CONTROL SYMBOL DAEN-RE-22	
THRU:		TO: HQDA (DAEN-REH-O) WASH DC 20314	
		FROM:	
SECTION I — RELOCATION ASSISTANCE PAYMENTS AND EXPENSES			
	ITEM	NUMBER OF CLAIMS PAID (a)	AMOUNT PAID (b)
1	Payments for expenses of moving individuals and families.	Actual expenses (Sec. 202(a))	\$
2		Fixed payment including dislocation allowance (Sec. 202(b))	
3	Payments for searching and moving expenses for displaced businesses, farms and non-profit organizations.	Actual expenses (Sec. 202(a))	
4		Payment in lieu of actual expenses (Sec. 202(c))	
5	Replacement housing payments for homeowners (Sec. 203)		
6	Rental assistance payments (Tenants and certain others) (Sec. 204(i))		
7	Down payment assistance (Tenants and certain others) (Sec. 204(2))		
8	Last resort housing (Sec. 206(a))		
9	Subtotal (Sum of lines 1 thru 8)		
10	Administrative costs in carrying out relocation program (Including cost of relocation advisory services provided under Section 205 of the Act)		
11	TOTAL (Sum of lines 9 and 10, column (b) only)		
12	TOTAL AMOUNT PAID FROM FEDERAL FUNDS THIS FISCAL YEAR		
13	TOTAL AMOUNT PROJECTED FOR NEXT FISCAL YEAR		
14	TOTAL AMOUNT PROJECTED FOR NEXT FISCAL YEAR TO BE PAID FROM FEDERAL FUNDS		
SECTION II — REAL PROPERTY ACQUISITION SETTLEMENTS COMPLETED			
	ITEM	NUMBER OF PARCELS (a)	COMPENSATION PAID (b)
15	Acquired by negotiation ^{1/}		\$
16	Acquired by condemnation ^{2/}		
17	TOTAL (Sum of lines 15 and 16)		
18	TOTAL AMOUNT PAID FROM FEDERAL FUNDS		\$
^{1/} Negotiated tracts include all tracts acquired by any method other than condemnation for reason of price disagreement.		^{2/} Include only tracts condemned because of price disagreement.	
REMARKS <p style="text-align: center;">FOR ILLUSTRATION PURPOSES ONLY (Local reproduction authorized — blank masters available from local FMO)</p>			

SECTION 14: GLOSSARY OF REAL ESTATE TERMS

GLOSSARY OF REAL ESTATE TERMS

ABANDONMENT - The voluntary surrender of property rights, with no intention of reclaiming them and without vesting interest in another person. Nonuse is not necessarily abandonment.

ABSTRACT - A history of the ownership of a property, showing transfers in ownership and factors affecting ownership, such as mortgages.

ABUTTER - A person whose property abuts, is contiguous, or joins at a border or boundary; where no other land, road or street intervenes.

ACCELERATION CLAUSE - A clause in a promissory note, agreement of sale, or mortgage which gives the lender the right to call all sums due and payable in advance of the fixed payment date upon the occurrence of a specified event, such as a sale, default, assignment or further encumbrance of the property. Usually the payee has the option to accelerate the note upon default of payment of any installment when due, provided he gives adequate notice and specifies a time within which the defaulting party can cure the other breaches of provisions in the contract, such as failure to pay taxes and assessments, or failure to keep the property insured or in repair. The provision for acceleration must be expressly set forth in the mortgage or agreement of sale document, otherwise, the right does not exist. There should be a consistency between the acceleration provisions stated in the mortgage and those stated in the promissory note.

ACCEPTANCE - The expression of the intention of the person receiving an offer (offeree, usually the seller) to be bound by the terms of the offer. The acceptance must be communicated to the offeror and must be in writing to be enforceable. The buyer has the right to revoke the offer any time before the seller's acceptance.

ACCESSION - Acquisition of title to additional improvements to real property as a result of annexation of fixtures or of accretion of alluvial deposits.

ACCRETION - An increase in dry land by gradual deposit of waterborne, solid material and riparian land, i.e., accretion by alluvion. The owner of riparian land becomes owner of title to land formed by accretion. Antonym: erosion.

ACCRUED DEPRECIATION - The difference between the present worth of improvements and the reproduction or replacement cost new, both measured on the appraisal date.

ACKNOWLEDGMENT - A formal declaration made before an authorized official by a person executing a document, that he signs the document by a free act and deed. The official is usually a notary public who witnesses the signature and verifies the identity of the person.

ACQUISITION - The act of becoming the owner of certain property; used also of the thing or property acquired.

ACRE - A measure of land equaling 43,560 square feet; or 4,840 square yards; or 160 square rods; or a tract about 208.71 feet square.

ACRE FOOT OF WATER - A volume of water that will cover an area of one acre to the depth of one foot: 43,560 cubic feet.

ACTIVE INSTALLATION - An installation in continuous use by active Army organizations.

AD VALOREM TAX - A tax on the value of the object or thing subject to taxation.

ADMINISTRATOR - A person appointed by the court to manage and settle the estate of a deceased person who has left no will.

ADVERSE POSSESSION - Acquisition of title to real property owned by someone else, by open, notorious, and continuous possession for the statutory period of time. Burden to prove title is on the possessor, who does not have a marketable title until he obtains and records a judicial decree quieting title. No right of adverse possession may be obtained against the United States.

AFFIDAVIT - A written declaration, sworn before an officer who has authority to administer oaths.

AGREEMENT OF SALE - A written agreement whereby the purchaser agrees to buy certain real estate and the seller agrees to sell upon terms and conditions set forth in the agreement.

AIR RIGHTS - The rights vested by a grant of an estate in real property to build upon, occupy, or use, in the manner and degree permitted, all or any portion of space above the ground or any other stated elevation within vertical planes, the basis of which corresponds with the boundaries of the real estate described in the grant.

ALIENATION - The voluntary transfer of real property from one person to another.

ALLOCATION - An amount of obligation authority transferred from one agency, bureau or account and set aside in a transfer appropriation account to carry out the purposes of the parent appropriation or fund.

ALLOTMENT - Authorization by the head of an agency to subordinates to incur financial obligations up to a specified amount. An agency makes allotments under the regulations in OMB Circular No. A-34, and not to exceed the amount allowed by OMB.

ALLUVION - A kind of accretion on riparian land by action of water which deposits sediment. See also ALLUVIUM, AVULSION.

ALLUVIUM - Sand, clay or mud deposited as sediment on riparian land.

AMENITIES - Tangible and intangible benefits generated and received through exercise of rights to real property, not necessarily in the form of money.

AMORTIZATION - Liquidation or gradual retirement of a financial obligation by periodic installments.

AMORTIZATION PERIOD - The period of time for economic recovery of the net investment in a project. This period is the lesser of 1) the period of time over which the plan can be expected to serve a useful purpose, or 2) the period of time when further discounting of beneficial and adverse effects will not appreciably influence design.

ANGLE - A measure of rotation about a point, generally used in surveys to show the relationship of one line to another. Angles are usually measured in degrees, 360 degrees to a full circle or one full rotation back to the point of beginning. Each degree is broken down into 60 minutes, and each minute into 60 seconds.

ANIMAL UNIT - A measure of numbers of livestock equivalent to a mature cow. One A.U. equals 1,000 pounds live weight, or one cow, horse, or mule; five sheep or swine; six goats.

ANIMAL UNIT MONTH - A measure of forage or feed sufficient to feed one ANIMAL UNIT for 30 days. Usually expressed relative to acres of land.

ANNEXATION - The act of attaching, adding or joining one thing to another, generally a smaller or subordinate thing with a large or principal thing. Usually with respect to land or fixtures.

APPORTIONMENT - A distribution by OMB of amounts available for obligation in an appropriation or fund account, including budgetary reserves established by law. An apportionment divides amounts by specific time periods (quarters), activities, projects, objects, or a combination.

APPRAISAL - A written estimate and opinion of value; a conclusion resulting from the analysis of facts.

APPRAISER - One qualified by education, training, and experience who is hired to estimate the value of real and personal property based upon experience, judgment, facts, and the use of the formal appraisal processes.

APPRECIATION - An increased conversion value of property or mediums of exchange due to economic or related causes which may prove to be either temporary or permanent.

APPROPRIATION - Authorization by act of Congress permitting Federal agencies to incur obligations and make payments out of the 'treasury for specific purposes.

APPROPRIATIONS BILL - A bill that gives legal authority to spend or obligate money from the Treasury. An appropriations bill usually provides the actual monies approved by authorization bills, but not necessarily the full amount permissible.

APPURTENANCE - Something annexed to another principal thing and which passes as incident to it, for example a right of way or barn passing with a principal property.

ASSESSED VALUATION An assessment of property values, by a unit of Government, for purposes of taxation.

ASSESSMENT - A charge against real estate made by a unit of government to cover a proportionate cost of an improvement, such as street or sewer.

ASSETS - All valuable things owned by a person, corporation, or other entity, encumbered or not.

ASSIGNMENT (OF TEASE) - A transfer to another of rights, interest, or claim in or to real or personal property. The party who assigns or transfers his interest is the assignor, and the assignee is the one to whom the assignment is made.

ASSUMPTION AGREEMENT - An undertaking of a debt or obligation primarily resting upon another person.

ASSUMPTION OF MORTGAGE - The taking of title to property by a grantee wherein he assumes liability for payment of an existing note secured by a mortgage or deed of trust against the property. He becomes a co-guarantor for the payment of the mortgage or deed of trust along with the original maker of the note, who is not released from his responsibility.

ATTACHMENT - The legal process of seizing the real or personal property of a defendant in a law suit, by levy or judicial order, and holding it in the custody of the court as security for satisfaction of the judgment.

ATTORNEY IN FACT - A person authorized to perform certain acts for another person, under power of attorney.

AUDIT - An examination of records of real estate transactions to verify accuracy and adequacy.

AUTHORIZATION BILL - Legislation to establish or continue the legal operation of a Federal program or agency, or to sanction a particular type of obligation or expenditure. Normally a prerequisite for an appropriation or other kinds of budget authority.

AVIGATION EASEMENT - The right granted by a land owner to an airport to use airspace above a specified height for the flight of aircraft. The owner may be prohibited from using the land for structures, trees, signs, stacks, etc. higher than a specified measure. Such restrictions will vary according to necessary glide angle.

AZIMUTH - The angle between A reference line, usually north and south, and a line to an object, measured clockwise from south in Corps of Engineers surveying.

BALLOON PAYMENT - A final payment on a note. It is usually substantially larger than any of the preceding installments.

BASE LINE AND MERIDIAN - Established lines used by surveyors to locate and describe land under the rectangular survey method of property description used in most states. The first north south line is the principal meridian; the first east west line is the base line, at right angles to the meridian.

BASE MAP - A map with reference points - such as state, county, township, or state and geodetic coordinate lines, or other features - on which land ownership data can be plotted.

BATTURE LAND - Land between low tide water's edge and river bank or levee. Batture land is generally in the same ownership as abutting land, but may be sold separately.

BEARING - The cardinal direction (North, South, East, West) of a line; e.g., North 50 degrees, 30 minutes West.

BENCH MARK - A mark of known elevation affixed to a permanent reference or monument, such as an iron post or brass marker, usually embedded in cement or a concrete structure and used to establish elevations over other surveys in the area.

BENEFICIARY - A person who receives and benefits from the gifts or acts of another, such as one who is designated to receive the proceeds from a will or trust.

BEQUEATH - To leave personal property to another by will. To leave real property by will is to devise.

BILL OF SALE - A written instrument transferring title, right, and interest in personal property to another.

BINDER - An agreement to cover an earnest money deposit for the purchase of real property as evidence of the purchaser's good faith and intention to complete the transaction.

BLANKET MORTGAGE - A single mortgage which covets more than one piece of real estate.

BOND - Any obligation under seal. A real estate bond is a written obligation, usually issued on security of a mortgage or a trust deed.

BORROW PIT - Location where borrow material is removed; resulting depression.

BREACH OF CONTRACT - Violation of any of the terms or conditions of a contract without legal excuse.

BUDGET AUTHORITY - The authority to enter into obligations that will result in immediate or future expenditure of Federal funds. The three main kinds of budget authority are appropriation, contract authority, and borrowing authority.

BUNDLE OF RIGHTS - Beneficial interests or rights which attach to the ownership of real property, including the right to sell, lease, encumber, use, enjoy, exclude, will, etc. When purchasing real estate, one actually buys the rights previously held by the seller, except those which are reserved or limited in the sale.

CADASTRAL - Public record of the extent, value and ownership of land; land surveying and mapping.

CAPITALIZATION - In appraising, determining value of property by considering net income and percentage of reasonable return on the investment.

CAPITALIZATION RATE - The percentage ratio between net income from investment and the value of the investment. Commonly expressed as "return on and return of" capital.

CARTOGRAPHY - The science or act of making maps.

CASH VALUE - The actual money that an Asset will bring on the open market without any lengthy delay.

CAVEAT EMPTOR – Latin phrase for "Let the buyer beware". Summarizes the rule that the buyer must examine, judge and test merchandise/property for himself.

CERTIFICATE OF NO DEFENSE - A legal instrument executed by a mortgagor setting forth the exact unpaid balance of a mortgage, the current rate of interest, and the date to which interest has been paid. It further states that the mortgagor has no defenses or offsets against the mortgage at the time of the execution of the certificate. Once the mortgagor has executed this certificate, he is therefore stopped from claiming that he did not owe the amount stated by him. Often used by the mortgagee when the mortgage is sold.

CERTIFICATE OF TITLE - A document stating that title to a particular property is clear. It is prepared by an attorney or qualified person who has examined the abstract of title, but is not to be confused with title insurance. It is only an opinion that title is good. Usually given to a homeowner with the deed.

CHAIN - A surveyor's unit of linear measure: 66 feet. Also, any length steel tape used to measure distance.

CHATTEL - Personal property which is tangible and movable. (The word "chattel" evolved from the word "cattle", one of man's early important possessions.)

CIVIL ACTION - Legal action brought to enforce, redress or protect private rights. All proceedings except criminal proceedings.

CIVIL RIGHTS ASSURANCE - Assurance that no person will be discriminated against or excluded from operations, programs or activities on the basis of race, color, age, sex, religion, handicap or national origin.

CLEAR TITLE - A title free and clear of all encumbrances.

CLOSING STATEMENT - An accounting by a broker of funds in a real estate sale, made to the seller and to the buyer.

CLOUD ON TITLE - An outstanding claim or encumbrance which would affect or impair the owner's title, if valid. A judgment or dower interest.

COINSURANCE - A relative division of risk between the insurer and insured, depending on relative amount of the policy and the actual value of the property insured. Takes effect only with partial loss, less than the amount of the policy coinsurance clauses induce the owner to carry full or nearly full coverage.

COLLOCATE - Sharing of one property by more than one user; especially armed forces recruiting facilities.

COLLATERAL HEIR - one who is not in the direct line of the deceased, but from a collateral line, as a brother/ sister, aunt/uncle, nephew/niece or cousin of the deceased.

COLLATERAL SECURITY - A separate obligation attached to a contract to guarantee its performance; the transfer of property or of other contracts or valuables, to ensure the performance of a principal agreement.

COLOR OF TITLE - The appearance of title (also called "apparent title"). Any fact, extraneous to the act or will of the claimant, which appears, on its face, to support his claim of title but, because of defect, falls short of establishing title.

COMMAND OPERATING BUDGET - The Command Operating Budget (COB) estimates costs of resource decisions and justifies command requirements. General operating agencies use information from the May Program Budget Guidance (PBG) to formulate the COB, which these agencies submit to HQDA in July.

COMMERCIAL CONCESSION - A special business arrangement usually made at a civil works project by leasing Army controlled real property to a private party who provides recreational services and facilities to the public at fair market value while seeking to make a profit. See also, MAJOR CONCESSION, MINOR CONCESSION, MIXED CONCESSION.

COMMITMENT OF FUNDS - Reservation of funds prior to obligation for a specific purpose, based on an estimate.

COMMON ELEMENT - In a condominium, land and parts of buildings used by all owners for mutual convenience and safety. See CONDOMINIUM

COMMON EXPENSE - In a condominium, expenses of operation and sums declared by the bylaws to be common expense.

COMMUNITY PROPERTY - Property accumulated through joint efforts of husband and wife, or by either one, during their marriage and owned in common.

COMPARABLE - Properties listed in an appraisal report which are substantially equivalent to the subject property, comparable in selling price, rental, income or similar measure.

COMPENSABLE INTEREST - Interest of parties that is to be compensated.

COMPLIANCE INSPECTION - Inspection of outgrants, military and civil, for compliance with terms of the outgrant and to review management/development of the property, particularly of outgrants which provide services to the general public.

COMPOUND INTEREST - Interest paid both on the original principal and on interest accrued from the time it fell due.

CONCESSION - A privilege granted to an individual by the Government, to sell food, etc., on Government land.

CONCURRENT LEGISLATIVE JURISDICTION - Legislative jurisdiction held by the United States concurrently with a state; the state grants to the U.S., and reserves to itself, the right to exercise the same legislative authority.

CONDEMNATION - In real property law, the process by which property of a private owner is taken for public use, with just compensation to the owner. Condemnation occurs under the right of eminent domain.

CONDITION SUBSEQUENT - A condition which, if it occurs, will defeat an existing estate in real estate or terminate an existing obligation.

CONDITIONAL COMMITMENT - A commitment for a loan subject to one or more conditions.

CONDITIONAL SALE CONTRACT - A contract whereby the owner retains title to the property until the purchaser has met all of the terms and conditions of the contract.

CONDOMINIUM - Fee ownership of a unit in multi-unit building with joint ownership of common areas.

CONSIDERATION - An act or forbearance, or the promise thereof, which is offered by one party to induce another to enter into a contract; that which is given in exchange for something from another. Consideration is usually something of value, such as the purchase price in money, though it may be personal services or exchanged property. It is the price bargained for and paid for a promise. Thus, the mere promise to pay money is sufficient consideration and an earnest money deposit is not necessary for purposes of creating a binding contract. Even though the sales price is stated in the contract for real property, the actual consideration supports the contract is the mutual exchange of promises by buyer and seller to legally obligate themselves to do something they were not before legally required to do.

CONSTRUCTIVE EVICTION - Breach of a covenant of warranty or quiet enjoyment; for example, the inability of a purchaser or lessee to obtain possession by reason of a paramount outstanding title. An act by the landlord which deprives the tenant of the beneficial use and occupancy of the premises devised.

CONSTRUCTIVE NOTICE - Often called legal notice, the conclusive presumption that all persons have knowledge of the contents of a recorded instrument.

CONTAMINATION - Presence of unexploded conventional ordnance, or of biological, radioactive, toxic chemical, or hazardous substances (defined in comprehensive Environmental Response Compensation and Liability Act of 1980) at levels that present a public hazard or exceed applicable standards.

CONTINUING RESOLUTION - Congressional legislation providing budget authority for Federal agencies and/or activities to continue operating until regular appropriations are enacted. This usually occurs when Congress has not enacted all appropriation bills before a new fiscal year begins.

CONTOUR LINE - A line connecting all points of the same elevation on a part of the earth's surface, represented by a continuous line on a topographic map.

CONTRACT - An agreement, either oral or written to do or not to do certain things. In real estate, there are many different types of contracts, including listings, contracts of sale, options, mortgages, assignments, leases, deeds, escrow agreements, and loan commitments, among others.

CONTRACT RENT - Payment for use of property, as specified in a lease.

CONVENTIONAL MORTGAGE - A mortgage on real estate securing a loan made by a private investor, not guaranteed by a Government agency such as FHA or VA.

CONVEYANCE - The transfer of title to real property by means of a written instrument, such as a deed.

COOPERATIVE - Multi-unit building owned by a corporation, each owner holding stock equal to the value of his apartment. Title is proprietary lease.

COST OF REPRODUCTION - The normal cost of exact duplication of a property with the same or closely similar materials as of a certain date or period.

COURSES AND DISTANCES - A method of describing or locating real property; this description gives a starting point and the direction and lengths of lines to be run; practically indistinguishable from a metes and bounds description.

COVENANT - A written agreement in a deed which pledges that either party will perform or abstain from specified acts on a certain property, or which specifies or forbids certain uses of the property.

CURTESY - The common law life estate of a husband to land his wife possessed in fee at her death. This interest has been abrogated as modified by statute in many states.

DAMAGES - Compensation or indemnity recovered through the courts by any person who has suffered loss, detriment or injury to person, property or rights. A sum of money awarded to a person injured by an act of another. May be compensatory or punitive.

DEBT SERVICE - Periodic payment on a debt, for interest on and retirement of the principal.

DECLARATION OF TAKING - Part of a condemnation package; a document stating the need for the property, describing the property, and stating that the property is being taken by eminent domain. Filing the declaration in court, with the deposit of estimated compensation, transfers title to the condemner.

DEDICATION - The application of privately owned land to the public for no consideration, with the intent that the land will be accepted and used for public purposes. A landowner may dedicate the entire fee simple interest, or an easement such as a public right-of-way across his property. Lands thus dedicated are normally taxed at a preferential rate.

DEED - A legal instrument in writing, duly executed, sealed, and delivered, whereby the owner of real property (grantor) conveys to another (grantee) some right, title, or interest in real estate.

DEED RESTRICTION - A provision in a deed controlling or limiting the use of the land.

DEFAULT - Failure to perform a specific, required legal duty.

DEFERRED MAINTENANCE - Existing but unfulfilled requirements for repairs and rehabilitation, deferred until a later date.

DEFICIENCY JUDGMENT - At a foreclosure sale, the difference between the indebtedness sued upon and the sale price or market value of the real estate. See also **DEFICIENCY PAYMENT**.

DEFICIENCY PAYMENT - Additional compensation required in a final judgment in condemnation proceedings. See also **DEFICIENCY JUDGMENT**.

DEPRECIATION - (1) A lowering of value. A reduction; lessening. The decline in value of property. Loss in market value. Deterioration over a period of time. The opposite of appreciation. (2) In appraising, depreciation is the reduction on value of a property as measured from the cost to replace it. It is the difference between the replacement cost and the market value. (3) In accounting, it is a write-off (usually annually) of a portion of an asset on the records.

DESCENT - Succession to ownership of an estate by inheritance. Title by which one person, upon death of another, acquires real estate of the latter as an heir at law. The person who inherits is controlled by state statutes.

DESIGN MEMORANDUM - A planning document prepared by the division/District Commander before any land may be acquired for a project.

DETERIORATION - Impairment of condition. One of the causes of depreciation and reflecting the loss in value brought about by wear and tear, disintegration, use in service, and the action of the elements.

DEVISE - A transfer of real property under a will. The donor is the devisor and the recipient is the devisee. Where there is no will, the real property "descends" to the heirs.

DISCOUNT - (1) That which can be taken off the established amount. Mortgages, for example, are frequently discounted when paid in advance of maturity. (2) A sum paid to obtain certain preferred mortgages, as the payment of points to a lending institution for FHA and VA mortgages.

DISPOSAL - An authorized method of permanently divesting the Government of control and responsibility for real and personal property. Sale of Government owned property.

DISPOSSESS - To deprive a person of possession and/or use of real property.

DOWER - A common law estate in land given to the wife in her husband's real property upon his death, consisting of a life estate in one third of all the real estate owned by the husband during the marriage.

DURESS - Forcing action or inaction against a person's will.

EASEMENT - A privilege or right which the owner of one parcel of land may have to use or enjoy the lands of another, i.e., a right-of-way.

EASEMENT APPURTENANT - An easement which is attached to, accompanies, and passes with a greater interest; it has no existence apart from the superior interest. Also called **PERTAINING EASEMENT**.

EARNEST MONEY - The cash deposit made by a purchaser of real estate as evidence of good faith.

ECONOMIC LIFE - The period over which a property will yield a return on the investment, over and above the economic or ground rent due to land.

ECONOMIC OBSOLESCENCE - Impairment of desirability or useful life arising from economic forces, such as changes in optimum land use, a legislative enactment which restrict or impair property rights, and changes in supply/demand relationships.

EFFECTIVE AGE - Age in years, indicated by the condition and utility of a structure.

EJECTMENT - A form of action to regain possession of real property, with damages for the unlawful retention.

ELEVATION - Surveying: The distance above or below a datum. Architecture: A sketch of the front or side of a building.

EMBLEMENTS - Growing crops (called "fructus industriales") which are produced annually through labor and industry. Emblements are regarded as personal property even prior to harvest; thus, a tenant has the right to take the annual crop, even if the harvest does not occur until after his tenancy has ended. A landlord cannot lease his land to a tenant farmer and then terminate the lease without giving the tenant the right to re-enter to harvest his crops.

EMINENT DOMAIN - The right of the government, both state and federal, to take private property for a necessary public use, with just compensation paid to the owner. Through eminent domain, the state may acquire land (fee, leasehold, or easement) for streets, parks, public buildings, public rights-of-way, and the like. The state may delegate the power of eminent domain to local governments and to public corporations and associations such as school districts. No private property is exempt from this exercise of government power.

ENCROACHMENT - Trespass; the building of a structure or any improvements partly or wholly intruding upon the property of another.

ENCUMBRANCE - Any claim, lien, charge or liability attached to and binding upon real property which may lessen the value of the property but will not necessarily prevent transfer of title. There are two general classifications of encumbrances: (1) those that affect the title, such as judgments, mortgages, mechanic's liens and other liens which are charges on property used to secure a debt or obligation; and (2) those that affect the physical condition of the property such as restrictions, encroachments, and easements.

ENDANGERED SPECIES - Plants and animals which are in danger of extinction throughout a significant portion of their ranges, as listed by U.S. Department of Interior.

ENGINEERING FEASIBILITY STUDY - Evaluation of a proposed construction at a particular site, to determine whether the proposed project is economically, structurally, and environmentally feasible.

ENVIRONMENTAL ASSESSMENT - A written evaluation, made early in the planning process, of the potential environmental impact of a proposed action.

ENVIRONMENTAL IMPACT ASSESSMENT - Analysis of a proposed action; the basis for deciding whether the proposed action will have a significant impact on the environment.

ENVIRONMENTAL IMPACT STATEMENT - A detailed, full disclosure report pursuant to National Environmental Policy Act of 1969 (NEPA). An EIS identifies and analyzes the anticipated environmental impact of a proposed action, discusses how adverse effects will be mitigated.

EQUITY - In real estate, the interest or value of the real estate over and above the amount of the indebtedness thereon.

EQUITY OF REDEMPTION - Also known as Statutory Redemption or Redemption. The right of the mortgagor, before a foreclosure sale, to reclaim property which has been forfeited due to mortgage default. The mortgagor can redeem the property by paying the full debt, plus interest and cost. Takes place in Title Theory states.

EROSION - Wearing away land through processes of nature, for example by streams and wind.

ESCALATION CLAUSE - A clause in a lease which causes a rent increase, contingent on a specific action.

ESCHEAT - The reverting of property to the state by reason of failure of person legally entitled to hold or when heirs capable of inheriting are lacking.

ESCROW - In real estate, it is the state or condition of a deed which is conditionally held by a third party, called the escrow agent, pending the performance or fulfillment of some act or condition.

ESCROW AGREEMENT - A written agreement between two or more parties whereby the grantor, promisor or obligor, delivers certain instruments or property into the hands of a third party, the escrow agent, to be held by said third party until the happening of a contingency or performance of a condition, and then to be delivered to the grantee, promisee, or obligee.

ESTATE - In real estate it refers to the degree, quantity, nature, and extent of interest which a person has in real property, such as a fee simple absolute estate, an estate for years.

ESTATE AT SUFFERANCE - An estate in land arising when the tenant wrongfully holds over after the expiration of his term; the landlord has the choice of evicting the tenant as a trespasser or accepting such tenant for a similar term and under the conditions of the tenant's previous holding; often called a tenancy at sufferance.

ESTATE FOR LIFE - A freehold estate, not of inheritance, but which is held by the tenant for his own life or the life or lives of one or more other persons, or for an indefinite period that may extend for the life or lives of persons in being, and beyond the period of life.

ESTATE FOR YEARS - An interest in land for a fixed period of time, from one day upwards; often called a tenancy for years.

ESTATE FROM PERIOD TO PERIOD - An interest in land where there is no definite termination date but the rental period is fixed at a certain sum per week, month or year; often called tenancy from year to year.

ESTATE IN REVERSION - The residue of an estate left in the grantor to commence in possession after the termination of some particular estate.

ESTOPPEL - A legal doctrine which prevents one from asserting rights that are inconsistent with a previous position or representation.

ESTOVERS - Wood which a tenant is allowed to take from the landlord's premises for the necessary fuel, implements, repairs, etc., of himself and his (resident) servants.

ET AL. - Abbreviation for et al, Latin meaning and others.

ET UX. - Abbreviation for et uxor, meaning and wife.

ET VIR - Latin meaning and husband.

EVICTION - Dispossession by process of law; the act of depriving a person of the possession of lands he has held pursuant to a judgment of the court.

EXCESS - Designates real property which is no longer required by the Federal agency accountable for it.

EXCESSING - The process of determining that real estate is not needed by the Army; reporting excess property to the disposal agency for disposal.

EXCHANGE - Disposal of any real interest by exchanging it for another real interest of equal value instead of cash.

EXCLUSIVE LEGISLATIVE JURISDICTION - Jurisdiction under which the Federal Government holds all the authority of a state legislature over a particular area, except authority to serve process in cases arising from occurrences outside of the area.

EXECUTOR - An individual or institution designated in a will and appointed by a court to settle the estate of the testator.

EXPERT WITNESS - Persons with particular knowledge or skill which enables them to give an opinion on the facts in dispute.

FAIR MARKET VALUE - Legal term synonymous with MARKET VALUE.

FEE - When applied to property, an inheritable estate in land.

FEE SIMPLE - The most comprehensive ownership of real property known to law; the largest bundle of ownership rights possible in real estate. Fee simple title is sometimes referred to as "the fee".

FEE TAIL - An estate or interest in land which cannot be conveyed but which must descend to the heirs of the holder; abolished in most states.

FIRST MORTGAGE - The mortgage on property that is superior in right to any other mortgage.

FIXTURE - A chattel which is affixed to and becomes a part of real property.

FORECLOSURE - Procedure whereby property pledged as security for a debt is sold to pay the debt in event of default in payments or terms.

FOREIGN EXCESS REAL ESTATE - Excess real property located outside the U.S., Puerto Rico, American Samoa, Guam, the Trust Territory of Pacific Islands, or Virgin Islands. May not include timber or installed equipment. Check regulations for definition of real estate at each location: Japan - USARJ 405-1; Korea - USFK 405-7; Europe - USAREUR 405-8.

FORFEIT - Loss of money, property, or the right to property by failure to act or by negligent or improper action. Property lost is called a forfeiture.

FRAUD - The intentional perversion of truth to deceive another person, whereby that person acts upon it to his legal injury.

FREEHOLD - An estate in fee simple or for life.

FRONT FOOT - One foot along the street frontage of a property.

FUNCTIONAL OBSOLESCENCE - A loss in value of an improvement due to functional inadequacies, often caused by age or poor design. For example, functional obsolescence may be attributable to such things as outmoded plumbing or fixtures, inadequate closet space, poor floor plan, excessively high ceilings or antiquated architecture. Thus a warehouse with nine foot ceilings would probably suffer a loss in value because a modern forklift could not operate in such a small space.

GENERAL LIEN - A lien which attaches to all property owned by the debtor.

GENERAL WARRANTY - A covenant in the deed whereby the grantor agrees to protect the grantee against the world.

GRADUATED LEASE - A lease that provides for the varying rental rate, often based upon future determination; sometimes rent is based upon result of periodic appraisals; used largely in long-term leases.

GRADUATED RENTAL SYSTEM - A concession lease in which lessee's percentage rental fluctuates with the ratio of his gross income to gross fixed assets. Also provides for a nonrefundable Fixed Minimum Rental (FMR). Percentage rental is offset against the FMR.

GRANT - The act of conveying or transferring real property, the operative words in a conveyance of real estate are to "grant, bargain, and sell". The grantor (the person who conveys the real estate) delivers the grant, in the form of a deed, to the grantee.

GRANTEE - Entity to whom a grant is made, or to whom real estate is conveyed. The buyer.

GRANTOR - Entity who makes a grant, conveys real estate by deed. The seller.

GROSS INCOME - The projected annual income from operation of a business or from management of a property.

GROSS RENT MULTIPLIER - Ratio of sales price to monthly rental income for single family residential properties.

GROUND LEASE - A lease to use land for a stated period; may be secured by improvements which the tenant will provide.

GUIDE ACQUISITION LINE - A line on the map accompanying a design memorandum showing the tentative boundaries of the land to be acquired for a project.

HABENDUM CLAUSE - The "to have and to hold" clause which defines or limits the quantity of the estate granted in the pre of the deed.

HAZARDOUS MATERIALS - See CONTAMINATION.

HECTARE - A metric surface measure: 10,000 square meters or 2.471 acres.

HEREDITAMENTS - Every sort of inheritable property, such as real, personal, corporeal, and incorporeal.

HIGH WATERLINE - The line of high water at ordinary tides.

HOLDING AGENCY - The Federal agency accountable for a piece of property.

HOLDOVER TENANT - A tenant who remains in possession of leased property after the expiration date of the lease term.

HOME STEAD - A home that is used as a personal residence. where there is homestead protection, the homeowner generally files a homestead declaration with the county recorder, setting forth his marital status, describing the land and estimating the value of the homestead. The homestead is then exempt from creditor's claims up to the statutory amount.

IMPROVEMENTS - An addition to land which costs labor or capital (buildings, pavements, etc.), more or less permanently attached. More than repair or replacement.

INCOME PROPERTY - Property owned or purchased primarily for the monetary return it will bring. It may be classified as commercial, industrial, or residential.

INDEMNIFY - To protect against or keep free from loss/ damage. To insure. To repay for loss/damage. To compensate for loss, reimburse.

INDUSTRIAL INSTALLATION - Active or inactive industrial facility held by the Department of the Army for production of weapons, systems, munitions, components, and supplies.

INGRANT - Property acquired for Army or Air Force used by lease, license, or permit; not fee.

INLEASING - The leasing of real estate interests therein, and improvements thereon for military and civil works purposes. Generally, also leasing of land/improvements by the Corps for other Government agencies.

INSTALLATION - Land and improvements controlled by the Department of the Army and used by Army organizations for Army functions.

INSTALLED BUILDING EQUIPMENT - Equipment and furnishings required to make a building usable and attached as a permanent part of the structure (e.g., docks, overhead crane., etc.).

INSTALLMENT CONTRACT - Purchase of real estate upon an installment basis; upon default, payments are forfeited. Often called a **LAND CONTRACT**, the deed to the property is not given to the purchaser until either all or a certain portion of the purchase price has been paid.

INSTRUMENT - A written legal document created to effect the rights of the parties.

INTEREST RATE - The rate of return on an investment, specifically, the rate charged on borrowed money.

INTERNAL CONTROL - The organization and methods within a Federal agency which guard against fraud, waste, abuse, and mismanagement of resources.

INTESTATE - A person who dies having made no will, or one defective in form; in which case, his estate descends to his heirs at law or next of kin.

INVOLUNTARY LEN - A lien imposed against property without consent of the owner; example: special assessments and Federal income tax.

JOINT AND SEVERAL - An obligation which binds two or more persons individually and jointly. This type of obligation can be enforced by joint action against all or separate actions against one or more.

JOINT TENANCY - Co-ownership of real property by two or more persons, whereby the joint tenancy have equal interest, accruing by the same conveyance, commencing at the same time, and held by equal and undivided possession. Joint tenancy includes the right of survivorship, by which interest of a deceased tenant passes to survivors.

JUDGMENT - The final determination of the rights and liabilities of the parties in an action, as decreed by a court.

JUNIOR LIEN - A lien placed upon property after a previous lien has been made and recorded.

JURISDICTION - The authority to legislate within a geographically defined area; authority to enact general municipal legislation over that particular area.

JUST COMPENSATION - Market value paid for real estate taken in a condemnation action.

LAND MANAGEMENT - Planning and execution of programs to use, improve and maintain land and water areas for the greatest net public benefit, while supporting the assigned mission. Includes forest and wildlife management, agriculture and grazing leasing, outdoor recreation, etc.

LAND SURVEYING - Location and identification of a parcel of land by a professional surveyor or engineer.

LANDLORD - One who rents property to others.

LEASE - A written document by which the owner transfers the rights of use and occupancy of land and/or structures to another person or entity for a specified period of time in return for a specified rental.

LEASEHOLD - The interest or estate which a lessee has in real property by virtue of his lease.

LEGAL DESCRIPTION - A statement containing a designation by which land is identified according to a system set up by law or approved by law.

LEGISLATIVE JURISDICTION - Authority to legislate within a geographically defined area; the same as jurisdiction. Types of jurisdiction are exclusive, concurrent, and partial.

LESSEE - A person/entity to whom property is rented under terms of a lease.

LESSER INTERESTS - Interest in land that is less than fee.

LESSOR - A person who rents property under a lease; the landlord.

LIABILITY - Any drawback, debt, or obligation. Something that acts as a disadvantage. An obligation or duty that must be performed. The opposite of asset.

LICENSE - Authority to enter or use another person's land or property, without possessing estate in it; revocable. Would otherwise constitute a trespass.

LIEN - A hold or claim which one person has upon the property of another as a security for some debt or charge.

LINK - Surveyor's linear measure. 1 link = 7.92 in. 100 links = 1 chain (66.6 feet)

LIS PENDENS - A public notice, filed against specific lands, that an action at law is pending that may affect the title to the land.

LITTORAL RIGHTS - The right of an owner of land with a shoreline contiguous to a sea or lake to use and enjoy the shore without a change in its position created by artificial interference; as distinguished from riparian rights and water rights.

LOCUS - A particular parcel of land; used to refer to an already specified property.

MAJOR CONCESSION - A commercial concession entirely on project land with gross fixed assets or annual gross income over \$150,000. See also, **COMMERCIAL CONCESSION**, **MINOR CONCESSION**, **MIXED CONCESSION**.

MARKET PRICE - The price paid regardless of pressures, motives, or intelligence.

MARKET VALUE - The price at which a willing seller would sell and a willing buyer would buy, neither being under abnormal pressure.

MARKETABLE OR MERCHANTABLE TITLE A title which is free from reasonable doubt of defect which can be readily sold or mortgaged to a reasonably prudent purchaser or mortgagee; a title free from material defects or grave doubts and reasonably free from possible litigation.

MEAN SEA LEVEL - Average sea level position, midway between average high and average low water. Used as a standard for measurement of heights in the past; now replaced by the National Geodetic Vertical Datum (NGVD) in most of the country.

MECHANICS LIEN - A statutory lien to secure payment to materialmen and mechanics for materials and services used to repair, improve, or maintain real property.

MEETING OF MINDS - A mutual intention of two persons to enter into a contract affecting their legal status based on agreed upon terms. One of the essential elements of a contract whereby the parties consent to be bound by the exact terms of the contract.

METES AND BOUNDS - A common method of land description that identifies a property by specifying the shape and boundary dimensions of the parcel, using terminal points and angles. A metes and bounds description starts at a well marked point of beginning and follows the boundaries of the land by courses and metes (measures, distances measures, distances and compass direction) and bounds (landmarks, monuments) and returns to the true point of beginning. A description which fails to enclose an area by returning to the point of beginning is defective.

MINERAL RIGHTS - The right to extract minerals from land. Does not include right to use the surface of the land to conduct mineral extraction. This must be obtained from the surface owner.

MINOR CONCESSION - A commercial concession entirely on project land with gross fixed assets or annual gross income under \$150,000. See also, **COMMERCIAL CONCESSION**, **MAJOR CONCESSION**, **MIXED CONCESSION**.

MIXED CONCESSION - A commercial concession on project and private land. See also, **COMMERCIAL CONCESSION**, **MAJOR CONCESSION**, **MINOR CONCESSION**.

MONUMENT - A natural or manmade fixed object used as a permanent reference point for surveying or to mark land ownership boundaries.

MONUMENTS DESCRIPTION - A method of describing property by referring to objects (monuments) on the boundaries.

MORTGAGE - A legal instrument pledging a described property for repayment of a loan under certain terms.

MORTGAGE BROKER - An individual or firm that makes mortgage loans on its own behalf, with its own funds, usually expecting to re-sell the loans to lenders at a profit.

MORTGAGEE - one to whom a mortgage is made; the lender.

MORTGAGOR - One who makes a mortgage, the borrower.

MULTIPLE USE - Integrated management of all natural resources to achieve optimum use and enjoyment, while balancing environmental qualities, ecological relationships, and esthetic values.

NATURAL RESOURCES - Viable and/or renewable products of nature; natural environments of soil, air and water; plants and animals on grasslands, rangelands, croplands, forest, lakes, and streams.

NAVIGATION SERVITUDE - Public right of navigation for the use of the people at large.

NEGOTIABLE - A promissory note, or similar instrument, is said to be negotiable if title to the instrument, and the money it represents, can be transferred by mere endorsement and delivery by the holder, or by delivery only.

NET INCOME - in general, synonymous with net earnings, but considered a broader and better term; the balance remaining, after deducting from the gross income all operating expenses, maintenance, taxes, and losses pertaining to operating properties excepting interest or other financial charges on borrowed or other capital.

NET LEASE - A lease agreement whereby the lessee pays all property charges (taxes, insurance, maintenance) in addition to rent. Local market customs and terms vary, in some areas, "net, net" and "net, net, net" are used.

NONEXCESS PROPERTY - Property required for an Army mission but proposed for sale: the proceeds would fund acquisition of replacement land or facilities. Authority to sell non-excess property is found at 10 U.S.C. 2667a.

NONUSABLE CONDITION - Describes a facility which is unserviceable because of deterioration, because it requires extensive restoration, or because it is dangerous to equipment or to the health and safety of personnel.

NOTE - A written instrument acknowledging a debt and promising payment.

NOTICE TO QUIT - A written notice from a landlord to a tenant that the tenant must vacate the premises at the end of the term or immediately, if the lease is at will.

OBLIGATION - Legal reservation of funds based on known requirements (a contract, for example), or an a realistic estimate of costs.

OBLIGOR - One who places himself under a legal obligation to an obligee.

OBSOLESCENCE - As applied to real estate it is the loss of value due to structural, economic, or social changes becoming outmoded.

OFFER - A promise by one party to act in a certain manner provided the other party will act in the manner requested. The offeror is the one who makes the offer to the offeree.

OFFSET STATEMENT - A statement by the owner of property or owner of a lien against property, setting forth the present status of liens against said property.

OPEN-END MORTGAGE - A mortgage containing a clause that permits the mortgagor to borrow money after the loan has been reduced without rewriting the mortgage.

OPTION - A privilege, acquired for a consideration, of demanding within a specified time the carrying out of a transaction upon stipulated terms. The optionor grants an option to an optionee.

ORDER OF POSSESSION - Court order in a condemnation which allows the Government to enter and use lands.

OUTGRANT - Government term for the interest or right granted to one to use Government real property by a lease, easement, license, or permit.

OUTLEASING - The leasing of Army controlled real property which is temporarily not required for mission purposes.

OUTSTANDING RIGHTS - Encumbrances, obligations, or liens on property. The Government may take such property subject to the outstanding rights or may eliminate them.

OVER-IMPROVEMENT - An improvement to land that is more extensive or costly than needed. As an example, the erection of a thirty story office building where fifteen would have been adequate for the present and foreseeable future needs of the business community. The resulting empty space provides no return to the owner. The market value of the property, as well as the surrounding land, is correspondingly lessened. Also called a misplaced improvement.

OWNER IN EQUITY - owner is responsible for repairing or replacing improvements to the property that are damaged (i.e., loss by fire, damages due to flood, etc.).

PARTIAL LEGISLATIVE JURISDICTION - Authority granted by a state to the Federal Government to legislate over an area, while the state reserves the right to exercise, alone or concurrently with the Federal Government, other authority greater than the right to serve civil or criminal process.

PARTIAL TAKING - Taking of part of a property for public use, under power of eminent domain. Compensation must be paid, considering damages and/or special benefits to the remainder property.

PARTITION - The dividing of common interests in real property owned jointly by two or more persons. It sometimes happens that one of several tenants in common or joint tenants desires to sell the property while the other tenants think it best to hold on to the investment. If the parties cannot reach an agreement, an action in partition is often the solution. The main purpose is to provide a means by which

people, fording themselves in an unwarranted common relationship, can free themselves from the relationship.

PATENT - An instrument by which the Federal Government conveys public land to an individual.

PERCENTAGE LEASE - A lease whereby rental is a percentage of gross or net income from sales or services. Such a lease often guarantees a minimum or maximum rent, regardless of business volume.

PERCOLATION - The flow of sub-surface water through land. A measure of percolation shows how much water the land can absorb.

PERMANENT CONSTRUCTION - A building suitable and appropriate to serve a specified purpose for at least 25 years with a minimum of maintenance.

PERMIT - A privilege, revocable at will, granted to another Federal agency to use real property for a specific purposes; confers no possessory interest.

PERSONAL PROPERTY - All physical objects of a personal or movable nature subject to ownership, except real estate (real property). See also **PROPERTY** and **REAL PROPERTY**.

PERSONALTY - Personal property, movable property, chattels. See also **PERSONAL PROPERTY**.

PHOTOGRAMMETRY - The science of surveying and mapping using aerial photographs and stereographic plotters.

PLAT - Map of town, section, or subdivision, showing location and boundaries of individual properties.

PLOT - A piece of land.

POINT - A measure for charges on a loan amounting to one percent of the loan. One point is therefore one percent of the subject loan.

POINT OF COMMENCEMENT - A remote established point from which the true point of beginning can be identified.

POLICE POWER - The right of the Government to enact legislation deemed necessary to protect and promote public health, safety, and welfare. In real estate, may be interpreted as the right to limit exercise of property rights without compensation (e.g., zoning).

PORTABLE BUILDING - A building designed for the continuing purpose of being easily moved intact from one location to another; usually kept in one location for a short time. Portable buildings are not items of realty and are not reported as real property inventory.

POSSESSORY INTEREST - Outgrant interests of private corporation and individuals to land that the Federal Government has withdrawn from county assessor's rolls.

POWER OF ATTORNEY - An instrument authorizing someone to act as another person's agent or attorney. The agent is attorney in fact, and his power is revoked at the death of the principal by operation of law. Power of attorney may be general or special.

PREPAYMENT PENALTY - Penalty for the payment of a mortgage or deed of trust note before it actually becomes due.

PRESCRIPTION - The acquiring of a right in property, usually in the form of an intangible property right such as an easement or right-of-way, by means of adverse use of property that is continuous and uninterrupted for the prescriptive period.

PRICE - The amount paid in legal tender, goods, or services; the consideration; purchase price. The terms for which a thing is done.

PRINCIPAL - Amount of a loan balance. In a mortgage payment of principal and interest, the principal repays the loan.

PRIVATE ORGANIZATION - A self-sustaining, Non-Federal entity, constituted or established and operating on Federal property, by individuals acting outside any official capacity in the Federal Government.

PROGRAM ANALYSIS AND RESOURCE REVIEW - The PARR document identifies and explains new programs and changes to existing programs. Twenty-eight major commands and other agencies submit material to the PARK.

PROGRAM AND BUDGET GUIDANCE - The PBG provides guidance on manpower and dollars from HQDA to general operating agencies. MACOMs use this guidance to prepare the PARR and COB. The PBG is published in January, May, and October and relates to the President's budget, the POM, and the OSD budget, respectively.

PROGRAM OBJECTIVE MEMORANDUM - The POM document presents the proposed Army program to the Office of the Secretary of Defense. It presents planned activities and the personnel and obligation authority required over a 5-year period to build, operate, and maintain this proposed program.

PROJECT PLANNING - Planning of real estate acquisition.

PROPERTY - The rights or interests a person has in the thing he owns; not, in the technical sense, the thing itself. These rights include the right to possess, to use, to encumber, to transfer and to exclude, commonly called the bundle of rights. In modern understanding, however, property has come to mean the thing itself to which certain ownership rights are attached. Property is either real or personal.

PROPERTY NOT UTILIZED - All or part of a property not used for current program purposes of the accountable agency, or occupied in caretaker status only.

PROPERTY UNDERUTILIZED - All or part of a property used only irregularly or intermittently by the accountable agency for current program purposes, or used for current program purposes that require only a portion of the property.

PROPRIETARY INTEREST - Rights of the Federal Government as property owner in a state. Rights conferred by virtue of ownership.

PUBLIC DOMAIN LANDS - Land or interest in land owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the land was acquired, except for the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts, Eskimos. Also known as public lands.

PURCHASE MONEY MORTGAGE - A mortgage given by the grantee to the grantor, on the same land and concurrently with the conveyance, to secure the unpaid balance of the purchase price.

QUALIFIED FEE - An estate in fee simple but bound by limitations imposed by the grantor.

QUARTERS - All housing facilities which are supplied by specific Department of the Army direction as incidental service in support of Government programs and for which rent and fees are charged the occupant.

QUIET ENJOYMENT - A right, granted by covenant in a deed or lease, of a grantee or tenant to enjoy possession of the premises without interference.

QUIET TITLE - Court action brought to establish title and to remove a cloud on the title.

QUITCLAIM DEED - A deed of conveyance with conveys to the grantee without warranty of title whatever interest, title, or claim the grantor possesses.

RANCHO - Grants of land to individuals dating back to the Spanish Mexican governments. A large tract of land suitable for grazing horses or cattle.

RANGE - A strip of land six miles wide, as determined by Government survey and running in a north south direction.

REAL ESTATE - See **REAL PROPERTY**.

REAL PROPERTY - Land and anything built on, growing on, or affixed to land. See also **PROPERTY**, **PERSONAL PROPERTY**.

REALTY - A term sometimes used as a collective noun for real property or real estate.

REASSIGNMENT - The action of changing Jurisdiction over real estate from one command or agency to another within the Department of the Army.

RECAPTURE CLAUSE - A clause in leases or deeds which gives the landlord the right to terminate if certain conditions or standards are not met. In a percentage lease, the landlord has the right to cancel if a specific minimum volume of business is not maintained. Also, a clause in Government outgrants which allows the Government to reacquire (recapture) the property if needed for national defense.

RESCISSION OF CONTRACTS - The abrogating or annulling of contracts. the revocation or repealing of a contract by mutual consent by parties to the contract, or for cause by either party to the contract.

RECTANGULAR SURVEY SYSTEM - Often called the United States Government Survey System; a method of describing or locating real property by reference to the Government survey. Used in about 30 states.

REDEMPTION - The right to redeem property during the foreclosure period; the right of an owner to redeem his property after a sale for taxes. Often referred to as Equity of Redemption.

RELATED FURNISHINGS - Property which is not fixed to or part of a building: furniture, furnishings, equipment.

RELEASE - The discharge or relinquishment of a right, claim or privilege. Since a formal release is a contract relieving a person from any further legal obligation, it must contain a valuable consideration.

RELEASE OF LIEN - The discharge of certain property from the lien of a judgment, mortgage, or claim.

RELICION - Addition or accretion to land by gradual subsidence of water.

RELOCATABLE BUILDING - A building designed to be readily moved, assembled, disassembled, stored, and reused; a trailer type building, but not a mobile trailer. Usually considered personal property.

RELOCATION ASSISTANCE - Benefits and assistance for Persons whose property is acquired under Title II of PL 91-646. The Act provides payment for moving and related expenses, replacement housing for owners and tenants, relocation assistance advisory, and last resort housing.

REMAINDER - An estate which vests after the termination of the prior estate, such as a life estate. It is created at the same time and by the same instrument as another estate and limited to arise immediately upon the termination of the other estate.

RENT - A compensation, either in money, provisions, chattels, or labor, received by the owner of real estate from the occupant.

REPLACEMENT COSTS - Cost of a building with equivalent utility but with modern materials and eliminating deficiencies of the building it replaces.

REPRODUCTION COSTS - Cost of building an exact duplicate of a structure, including deficiencies.

REPROGRAMMING - Transfer of funds from one appropriation account to another, for purposes different from the original appropriation.

RESERVATION - A right reserved by an owner in the grant (sale or lease) of a property.

RESERVED PUBLIC LANDS - See WITHDRAWN PUBLIC LANDS.

RESIDUAL ESTATE - That which remains of a testator's estate after deducting the debts, bequests, and devises.

RESTRICTION - A limitation upon the use or occupancy of real estate, placed by covenant in deeds or by public legislative action.

RESTRICTIVE COVENANT - A clause in a deed limiting the use to which the property may be put.

REVERSION - The residue of an estate left in the grantor to commence in possession after the determination of some particular estate granted out by him. The return of land to the grantor and his heirs after the grant is over.

REVERSIONARY INTEREST - The interest that a person has in lands or other property upon the termination of the preceding estate.

REVOCATION - The recall of a power or authority conferred, or the vacating of an instrument previously made.

RIGHT OF SURVIVORSHIP - The distinctive characteristic of a joint tenancy (also tenancy by the entirety) by which the surviving joint tenants succeeds to all right, title, and interest of the deceased joint tenant without the need for probate proceedings.

RIGHT-OF-ENTRY - A written instrument, binding on all parties, which provides authority to enter on certain premises to perform specified acts, without acquiring any estate or interest in the property.

RIGHT-OF-WAY - The right or privilege, acquired through accepted usage or by contract, to pass over a designated portion of the property of another. A right-of-way may be private, as in an access easement given a neighbor, or public, as in the right-of-way to use the highways and streets.

RIPRAP - Loose stone piled on an embankment or slope to prevent erosion or washing out.

RIPARIAN OWNER - One who owns land bounding upon a river or water course.

RIPARIAN RIGHTS - The right of a landowner to water on, under, or adjacent to his land, for general purposes, wharfing, and access to navigable waters. The rights of an owner of land on the bank of a stream or river.

SALE-LEASEBACK - A situation where the owner of a piece of property wishes to sell the property and retain occupancy by leasing it from the buyer.

SALES CONTRACT - A contract by which buyer and seller agree to the terms of the sale.

SATISFACTION OF MORTGAGE - An instrument for recording and acknowledging payment for an indebtedness secured by a mortgage.

SCREENING - Circulation of notice within the Army of real property which is no longer required by one Army organization but may be required and useful to another.

SEA LEVEL - See MEAN SEA LEVEL.

SEAL - An embossed impression on paper authenticating a document or signature (e.g., corporate or notary seals). The letters L. S. after the signature are Latin, locus sigilli, meaning "place of the seal." It is good practice to require a corporate seal on a contract as evidence that the contract is the act of the corporation and executed by duly authorized officers.

SECONDARY FINANCING - A loan secured by a second mortgage or trust deed on real property.

SECTION - As used in the Government Survey System, a section of land is an area one mile square, containing 640 acres. It is 1/36th of a township.

SECURITY INTEREST - An interest in personal property or fixtures, obtained to ensure payment owed as performance of an obligation.

SEDIMENTATION RANGES - Upstream range lines for compiling data on erosion or sediment build-up.

SEISIN (SEIZIN) - Actual possession of property by one who claims rightful ownership of a freehold interest therein. A person is seized of property when he is in rightful possession with the intention of claiming a freehold estate.

SEMI-PERMANENT CONSTRUCTION - A building appropriate for a specific purpose for a limited period (more than 5 but less than 25 years), with a moderate to high level of maintenance.

SEPARATE PROPERTY - Property owned by a husband or wife which is not community property; property acquired by either spouse prior to marriage or by gift or devise after marriage.

SERVITUDE - A charge or burden on one estate to the benefit or advantage of another.

SEVERALITY OWNERSHIP - Sole ownership. Owned by one person only.

SEVERANCE DAMAGES - Payment to an owner for diminution in the value of a remainder area in a partial acquisition, caused by the acquisition (severance) or by construction of improvements.

SINKING FUND - A fund in which equal monthly or annual deposits, with compound interest, accumulate to a predetermined amount at a calculated time, for the purposes of paying a debt or replacing improvements.

SITE - A parcel of land, sufficiently improved to be used as a building lot or for other purposes requiring an improved site.

SPECIAL WARRANTY DEED - A deed in which the grantor warrants or guarantees the title only against defects arising during his ownership of the property and not against defects existing before the time of his ownership.

SPECIFIC PERFORMANCE - A remedy which the court will grant, in certain cases, compelling the defendant to perform or carry out the terms of a valid, existing agreement or contract.

STATUTE OF FRAUDS - State law which provides that certain contracts must be in writing to be enforceable contracts for real estate are included in this class of contract.

SUBDIVISION - Any land which is divided or is proposed to be divided for the purpose of disposition into two or more lots, parcels, units, or interests.

SUBJECT TO MORTGAGE - The taking of title to Property by a grantee, wherein he is not responsible to the holder of the promissory note for the payment of any portion of the amount due. In the event of foreclosure, the most that he can lose is his equity in the property. The original maker of the note is not released from his responsibility.

SUBLETTING - A leasing by one tenant to another, who holds the right of use and occupancy subject to the original lease; the sublessee.

SUBORDINATE - To make subject to, or junior to.

SUBORDINATION CLAUSE - A clause in a mortgage or lease stating that rights of the holder shall be secondary or subordinate to a subsequent encumbrance.

SUBROGATION - Replacing one person with another in regard to a legal right, interest, or obligation. Substitution, such as a mortgage holder's selling his rights and interest to another.

SUBSURFACE RIGHTS - Ownership rights to water, minerals, gas, oil, and similar substances lying beneath the surface of a parcel of real estate.

SURETY - One who guarantees the performance of another; the guarantor.

SURFACE RIGHTS - Ownership rights in a parcel of real estate that are limited to the surface and do not include air above the property (air rights) or minerals below the surface (subsurface rights).

SURPLUS REAL ESTATE - Real property owned by the United States not required for the discharge of responsibilities of any Federal agencies, thus determined by the GSA Administrator to be excess.

SURRENDER - The cancellation of a lease by mutual consent of lessor and lessee.

SURVEY - The act by which the quantity and boundaries of a piece of land are ascertained; the paper containing a statement of the courses, distance, and quantity of land is also called a survey.

SUSTAINED YIELD - The production rate of renewable resources an area of land or water can maintain at a given intensity of management.

TACKING - An adverse possessor has passed his rights to another and his time of possession counts for the new possessor.

TAX DEED - A deed given where property has been purchased at a sale to the public of property for nonpayment of taxes.

TAX LIEN - A government claim for unpaid real estate tax.

TAX SALE - A sale of property, usually at auction, for nonpayment of taxes assessed against it.

TEMPORARY CONSTRUCTION - A building suitable and appropriate to fill a need for a short period (5 years or less) without regard to level of maintenance, the designs and details of which provide a minimum facility with maximum initial economy.

TENANCY IN COMMON - Co-ownership of real property by two or more persons, each entitled to possession according to his proportionate share. Unlike joint tenancy, there is no right of survivorship. See also **JOINT TENANCY**, **TENANCY BY ENTIRETY**, **RIGHT OF SURVIVORSHIP**.

TENANCY BY THE ENTIRETY - Joint ownership by husband and wife, created by conveyance to husband and wife, who possess the property jointly. The property goes entirely to the survivor and is liable only for joint debts of husband and wife, not individual debts. Divorce severs the tenancy. See also **JOINT TENANCY**, **TENANCY IN COMMON** **RIGHT OF SURVIVORSHIP**.

TENANT - One who holds or possesses land or tenements by any kind of title, either in fee, for 'life, for years, or at will. In a popular sense, the one who has temporary use and occupation of lands or tenements which belong to another, the duration and other terms of whose occupations are usually defined by a lease, while the parties thereto are placed in the relationship of landlord and tenant.

TENANT AT SUFFERANCE - One who comes into possession of lands by lawful title but keeps them afterwards without any title, after his interest has ended.

TENANT AT WILL - A license to use or occupy lands and tenements at the will of owner, but for no fixed term. The tenancy can be terminated at will by the owner.

TENURE IN LAND - The mode or manner by which an estate in lands is held.

TERM - The extent of time for which an estate is granted. For example, the period which is granted for the lessee to occupy the premises; it does not include the time between making the lease and the tenant's entry.

TERMINATION - End of a lease or contract, usually before the anticipated time; termination may *be* by mutual agreement or by exercise of one party of a legal remedy due to default of the other party.

TERMINATION FOR CAUSE - Termination of an outgrant because of the lessee's violation of a condition of the grant.

TERMINATION AT WILL - Termination of an outgrant at will by the lessor. All Army outgrants may be terminated at will.

TESTATE - The condition of one who leaves a valid will at their death.

THREATENED SPECIES - Plants and animals likely to become endangered species, as listed by the Department of Interior, within the foreseeable future and throughout a significant portion of their ranges.

TIMBER MANAGEMENT - Production and identification of salable wood products from forests on a sustained yield basis: sawtimber, pulpwood, poles, ties, posts, piling, and other products.

TIME IS OF THE ESSENCE - One of the essential requirements to the forming of binding contract; it contemplates a punctual performance.

TITLE - The right to or *ownership of lands*. Also, the evidence of ownership. Title to property encompasses all the bundle of rights an owner possesses.

TITLE INSURANCE - Indemnity against loss or damage resulting from defects in or liens on a title at the date of the insurance.

TOPO (GRAPHIC) MAP - A map showing physical features and relative elevations of the area surveyed. The elevations are graphically depicted by contour lines.

TOWNSHIP - A territorial subdivision, six miles long, six miles wide, and containing thirty-six sections, each one mile square.

TRACT - An area of land contained in one description.

TRACT I OWNERSHIP DATA - A historical record of a particular tract of land, confirmed by the owner or someone familiar with the land and recorded on ENG Form 900.

TRADE FIXTURES - Articles of Personal property annexed to real property but which are necessary to the carrying on of a trade and are removable by the owner.

TRANSFER - Change of jurisdiction over real property from one Federal agency or department to another, including military departments and defense agencies.

TRUE POINT OF BEGINNING - The point from which a legal description of property begins and ends.

TRUST DEED OR DEED OF TRUST - A deed conveying land to a trustee as collateral security for the payment of a debt; upon payment of a debt secured thereby, the deed of trust is released; upon default, the trustee has the power to sell the land and pay the debt.

TRUSTEE - One who holds property in trust for another to secure the performance of an obligation.

UNDERIMPROVEMENT - Improvement inadequate to support the highest/best use of the site. May be a structure of lower cost, smaller size, or lesser quality than those typical of the neighborhood.

UNDERUTILIZED - The characteristics of underutilized project lands are: (1) Development of only a small amount of total land; (2) Development behind schedule; (3) Failure to meet annual management objectives; (4) Low or declining public use; (5) Unused recreation facilities.

UNDUE INFLUENCE - Taking any fraudulent or unfair advantage of another's weakness in mind, distress, or necessity.

USURY - On a loan, claiming a rate of interest greater than that permitted by law.

UTILITY - The usefulness of a property; its ability to satisfactorily function for the purpose for which it was intended.

UTILIZATION INSPECTION - An inspection of project lands buildings, and related facilities to determine if the property is being put to optimum use.

VACATED PREMISES - Property from which all military personnel and missions have been vacated.

VALID - Having force, or binding force; legally sufficient and authorized by law.

VALUATION - The act or process of estimating value; the amount of estimated value.

VALUE - Ability to command goods, including money, in exchange; the quantity of goods, including money, which should be commanded or received in exchange for the thing valued; utility; desirability. As applied to a property value may be broadly defined as "the present worth of all the rights to future benefits arising from ownership".

VARA - A Spanish, Portuguese, and Latin American unit of linear measure, varying from 32 to 43 inches. Also a square vara, as a unit of area.

VENDEE - A purchaser; a buyer; the person to whom a thing is rendered or sold.

VENDOR - The person who transfers Property by sale.

VOID - That which is unenforceable; having no force or effect.

VOIDABLE - That which is capable of being adjudged void but is not void unless action is taken to make it so.

VOLUNTARY LIEN - Any lien placed upon property with consent of, or as a result of, the voluntary act of the owner.

WAIVER - The renunciation, abandonment, or surrender of a right, claim, or privilege.

WARRANTY DEED - A deed that contains a covenant that the grantor will protect the grantee against any claimant.

WASTE - Willful destruction of any part of the ;and which would injure or prejudice the landlord's reversionary right.

WATERLINE - High waterline is the point on the shore to which the tide normally rises; varies. Low waterline is the lowest point of tide, from which the tide does not ebb; varies.

WETLANDS - Land areas that are inundated by surface or ground water with sufficient frequency to support vegetable or animal life that requires hydric soils for growth and reproduction.

WILDLIFE MANAGEMENT - Application of scientific and technical principles to wildlife populations and habitats so as to maintain such populations for ecological, scientific, or recreational purposes.

WITHDRAWN LANDS (withdrawn public lands) - Public domain held back for the use or benefit of an agency by reservation, withdrawal, or other restrictions for a special government purpose.

ZONING - The public regulation, through police power, of the character and extent of real estate use. Uniform restrictions on improvements, building height, density of population, and other factors regulate the use and development of private property.

SECTION 15: ABBREVIATIONS & ACRONYMS

GUIDE TO CORPS ABBREVIATIONS, ACRONYMS AND NUMBERS

The following list defines some of the more frequently used abbreviations and acronyms that you may encounter in working with us and reading our documents. Some of these entries are common throughout business, government or the construction industry, many are unique to the Army or the Corps. Most are informal products of the civil works business; the official Army list is in "Authorized Abbreviations, Brevity Codes and Acronyms" (Army regulation number AR 310-50, dated 15 November 1985).

A

AAA	Army Audit Agency
a-b-c's	requirements for local cooperation
ACE	Assistant Chief of Engineers
ACHP	Advisory Council on Historic Preservation
ACO	administrative contracting officer
ADP	automatic data processing
ADR	alternative dispute resolution
AF	architect-engineer
A-E	architect-engineer
A/E	architect-engineer
AE&D	advance engineering and design
AF	acre foot
AFARS	Army Federal Acquisition Regulation Supplement
AL	annual leave
AMPCL	administrative maximum project cost limit
AO	area office
A/O	as of
APWA	American Public Works Association
AR	Army regulation
ASA	Assistant Secretary of the Army
ASA(CW)	Assistant Secretary of the Army (Civil Works)
ASAP	as soon as possible
ASCE	American Society of Civil Engineers
ATRN	attention

B

BC	benefit-cost
B/C	benefit-cost ratio
BCA	Board of Contract Appeals
BCOE	Biddability, Constructability, Operability, Environmental Compatibility
BCR	benefit-cost ratio
BE	beach erosion

BE/HLJR	beach erosion/hurricane protection
BERN	Board of Engineers for Rivers and Harbors
BG	brigadier general
BLM	Bureau of Land Management
BOD	biological oxygen demand
BOR	Bureau of Reclamation
BR	branch
BR	Bureau of Reclamation
BRAC	Base realignment and closure
BY	budget year

C

CA	commercial activities
CA	continuing authorities
CACES	computer aided cost estimating system
CAP	Continuing Authorities Program
CBD	central business district
CBD	Commerce Business Daily
CBO	Congressional Budget Office
CBRA	Coastal Barrier Resources Act
CDR	commander
CE	civil engineer
CE	Corps of Engineers
CEBRH	Board of Engineers for Rivers and Harbors
CECW	Corps of Engineers Civil Works
CECW-B	Headquarters, Civil Works Programs Division
CECW-E	Headquarters, Civil Works Engineering Division
CECW-L	Headquarters Civil Works Life Cycle Project Management Division
CECW-0	Headquarters, Civil Works Construction, Operations and Readiness Division
CECW-P	Headquarters, Civil Works Policy and Planning Division
CEFMS	Corps of Engineers Financial Management System

E

EA	environmental assessment
EAB	Environmental Advisory Board
EC	engineer circular
E&C	Engineering and Construction
E&D	Engineering and Design
EDA	Economic Development Administration
EEO	Equal Employment Opportunity
EFARS	Engineer Federal Acquisition Regulation Supplement
EIS	environmental impact statement
EM	engineer manual
EO	Executive Order
EOB	Executive Office Building
EOC	Emergency Operations Center
EP	Engineer Pamphlet
EPA	Environmental Protection Agency
EQ	Environmental Quality
ER	Engineer Regulation
EROC	Engineering Reporting Organization Code
ERR	Ecosystem Restoration Report
ERTS	earth resources technology satellite
ESA	Endangered Species Act
ETL	engineer technical letter
ETL	Engineering Topographic Laboratories

F

F&A	finance and accounting
FAD	funding authorization document
FAO	finance and accounting officer
FAR	Federal Acquisition Regulation
FC	flood control
FCA	flood control act
FCSA	feasibility cost sharing agreement
FDM	feature design memorandum
FDP	flood damage prevention
FEIS	final environmental impact statement
FEMA	Federal Emergency Management Agency
FERC	Federal Energy Regulatory Commission
FERS	Federal Employees Retirement System
FHA	Federal Highway Administration
FHA	Federal Housing Administration
FIA	Federal Insurance Administration
FIS	flood insurance
F&M	foundations and materials
FNSI	fording of no significant impact
FOA	Field Operating Agency

FOI	Freedom of Information
FOIA	Freedom of Information Act
FONSI	fording of no significant impact
FOUO	for official use only
FPC	Federal Power Commission
FPI	flood plain information
FPM	flood plain management
FPMS	flood plain management services
FR	Federal Register
FRC	feasibility review conference
FS	Forest Service
FTE	full time equivalent
FTP	full time permanent
FTS	Federal Telecommunications System
FTT	full time temporary
F&W	fish and wildlife
F&WL	fish and wildlife
FWS	Fish and Wildlife Service
FY	fiscal year
FYI	for your information

G

GAO	General Accounting Office
GBL	government bill of lading
GDM	general design memorandum
GE	general expense
GFP	government furnished property
GI	general investigation
GIS	graphic information system
GIWW	Gulf Inter-Coastal Waterway
GM	general schedule merit pay system
GNF	general navigation feature
GPAS	General Performance Appraisal System
GPO	Government Printing Office
GPS	Global Positioning System
CTS	Gramm - Rudman - Hollings
GS	general schedule
GSA	General Services Administration

H

HABS	Historic American Building Survey
HAC	House Appropriations Committee
HAP	Homeowners Assistance Program
HAER	Historic American Engineering Record
HAZMAT	hazardous material
HBC	House Budget Committee

HD	House document	IPMP	initial project management plan
HEC	Hydraulic Engineering Center	IPR	in progress review
HEP	Habitat Evaluation Procedures	IPT	interdisciplinary planning team
HES	habitat evaluation system	IRC	issue resolution conference
H&H	hydrology and hydraulics	IWR	Institute for Water Resources
HHG	household goods	IWTF	Inland Waterway Trust Fund
HHS	Health and Human Services		
HJ	House Joint		J
HL	hired labor		
HPWC	House public works committee	JCS	Joint Chiefs of Staff
HPWCR	House public works committee resolution	JTR	Joint Travel Regulation
HPWRC	House Public Works and Transportation Committee		L
HQ	headquarters	LASH	lighter aboard ship
HQUSACE	Headquarters, US. Army Corps of Engineers	LCPM	life cycle project management
HR	House of Representatives	L&D	lock and dam
HR	House resolution	LERD	lands, easements, rights of way, disposal areas
	human resource management	LERR	lands, easements, rights of way, relocation
HSDR	hurricane and storm damage reduction	LERRD	lands, Easement rights of way, relocation, disposal areas
HTW	hazardous and toxic waste		
HUD	Housing and Urban Development	LMMP	Limited Map Maintenance Program
HVAC	heating, ventilation and air conditioning	LMPCL	legislative maximum project cost limit
	I	LOI	letter of intent
188	Initiative '88	LPP	local protection project
IA	initial appraisal	LS	lump sum
IAW	in accordance with	LT	lieutenant
IBWC	International Boundary and Water Comm.	LTC	lieutenant colonel
ICW	in concert with	LTG	lieutenant general
ICWP	Interstate Conference on Water Problems	LTT	long term training
	identification		M
ID	initial denial authority	MACOM	Major Army Command
IDA	indefinite delivery contract	MAJ	major
IDC	interest during construction	MARAD	Maritime Administration
IDP	individual development plan	MARKS	Modern Army Record keeping System
IFB	invitation for bid	M-CACES	microcomputer aided cost estimating system
IG	inspector general		
IHO	in honor of	MCD	minor civil division
IJC	International Joint Commission	MCD	miscellaneous commitment document
IM	information management	MFR	memorandum for the record
IMO	Information Management Office	MG	major general
INSA	Inland Navigation Systems Analysis	M&I	municipal and industrial
IPA	Intergovernmental Personnel Act	M&IE	meals and incidental expenses
IPM	individual project manager	ML	multiple letter

MLG mean low Gulf
 MLW mean low water
 MLLW mean lower low water
 MOA memorandum of agreement
 MOA method of accomplishment
 MOB mobilization
 MOD miscellaneous obligation document
 MOU memorandum of understanding
 MP military project
 MPF maximum probable flood
 MRC Mississippi River Commission
 MRD Missouri River Division
 MR&T Mississippi River and Tributaries

N

NA not applicable
 NA not available
 NADB National Archeological Data Base
 NAFSMA National Association of Flood and Stormwater Management Agencies
 NASA National Aeronautics and Space Administration
 NAV navigation
 NCO noncommissioned officer
 NED national economic development
 NEPA National Environmental Policy Act
 NGVD national geodetic vertical datum
 NFIP National Flood Insurance Program
 NIMBY not in my back yard
 NLT not later than
 NMFS National Marine Fisheries Service
 NOAA National Oceanographic and Atmospheric Administration
 NOI notice of intent
 NPDES National Pollution Discharge Elimination System
 NPS National Park Service
 NRA National Recreation Area
 NRHP National Register of Historical Places
 NTIS National Technical Information Service
 NTL not later than
 NTP notice to proceed

O

O/A on or about
 OACE Office of the Assistant Chief of Engineers

OASA Office of the Assistant Secretary of the Army
 OASA (CW) Office of the Assistant Secretary of the Army, Civil Works
 OBE overcome by events
 OBERS Office of Business Economics/Economic Research Service
 OBS organizational breakdown structure
 OCE Office of the Chief of Engineers
 OCONUS outside continental United States
 OJT on the job training
 OM operating manual
 O&M Operation and maintenance
 OMB Office of Management and Budget
 OM&R operation, maintenance and rehabilitation
 OMRR operation, maintenance, repair and rehabilitation
 OMRR&R operation, maintenance, repair, replacement and rehabilitation
 OPM Office of Personnel Management
 ORD Ohio River Division
 ORV off-road vehicle
 OSA Office of the Secretary of the Army
 OSD Office of the Secretary of Defense
 OSE other social effects
 OSHA Occupational Safety and Health Administration
 OT overtime

P

p promotable
 PA Planning Associate
 PAC post-authorization change
 PAM pamphlet
 PAO Public Affairs Office
 PAS planning assistance to states
 PB_I Engineering Form 2200, Summary Construction Program
 PB-2a Engineering Form 2201A, Detailed Project Schedule
 PB-3 Engineering Form 2202, Project Cost Estimate
 PB-5a Engineering Form 2205A, -Study Program Schedule
 PB-6 Engineering Form 2204, Study Cost Estimate
 PCA Project Cooperation Agreement
 PC personal computer
 PCs permanent change of station

PDC paid during construction
 PE professional engineer
 PED preconstruction engineering and design
 PE&D planning, engineering and design
 PERT program evaluation and review technique
 P&G Principles and Guidelines
 PGM project guidance memorandum
 PGN Planning Guidance Notebook
 PI principle investigator
 PL public law
 PL-99 Public Law 99, 84th Congress, Emergency Flood Control Funds
 PM project manager
 PM public meeting
 PMF probable maximum flood
 PMO Programs Management Office
 PMP probable maximum precipitation
 PMF project management plan
 POA plan of action
 POC Planner Orientation Course
 POC point of contact
 POD Pacific Ocean Division
 POS plan of study
 PR&A program review and analysis
 PRB Project Review Board
 PRIP Plant Replacement and Improvement Program
 PRISM Project Resources Information System for Management
 PROSPECT' proponent sponsored engineer Corps training
 P&S plans and specifications
 P&S Principles and Standards
 P&S procurement and supply
 PTP part time permanent

Q

QA quality assurance
 QC quality control
 QA/QC quality assurance/quality control
 Q's & A's questions and answers

R

RAPM Resource Analysis Project Management
 RBRCR remaining benefit - remaining cost ratio

RCC roller compacted concrete
 RCS reports control symbol
 RD regional development
 R&D research and development
 RDM relocation design memorandum
 RE real estate
 RE regarding
 REC recreation
 RED regional economic development
 REDM real estate design memorandum
 REPR real estate planning report
 RES real estate supplement
 RFP request for proposal
 R&H river and harbor
 R14A river and harbor act
 R&HA river and harbor act
 RHFCA river and harbor and flood control act
 RIF reduction in force
 RMO Resource Management Office
 ROD Record of Decision
 ROW right of way
 R-O-W right-of-way
 RPAO real property accountability officer
 RPC reinforced concrete pipe
 RRC reconnaissance review conference
 R/W right of way

S

S Senate
 SA Secretary of the Army
 SAM South Atlantic Mobile
 S&A States and Agencies
 S&A supervision and administration
 S/A states and agencies
 SAB subject as above
 SAC Senate Appropriations Committee
 SACW Secretary of the Army, Civil Works
 SADBU small and disadvantaged business utilization
 SAME Society of American Military Engineers
 SBC Senate Budget Committee
 SBH small boat harbor
 SCORP State comprehensive outdoor recreation plan
 SCRb separable cost remaining benefit
 SCS Soil Conservation Service
 SD Senate document
 SEC section

SEPWC	Senate Environment and Public Works Committee	USC	United States Code
SES	Senior Executive Service	UST	underground storage tank
SF	standard form	USCG	United States Coast Guard
SFO	support for others	USEPA	United States Environmental Protection Agency
SGT	sergeant	USFWS	United States Fish and Wildlife Service
SHPO	state historic preservation officer	USGS	United States Geological Survey
S&I	supervision and inspection		
SL	sick leave		V
SM	study manager		
SMSA	standard metropolitan statistical area	VE	value engineering
SOP	standard operating procedures		
SOS	scope of studies		W, X, Z
SOW	scope of work		
SPF	standard project flood		
SPH	standard project hurricane	WBS	work breakdown structure
SPOC	single point of contact	WES	Waterways Experiment Station
SPWC	Senate public works committee	WLRC	Washington Level Review Center
SPWCR	Senate public works committee resolution	WRC	Water Resources Council
SR	Senate resolution	WRDA	Water Resources Development Act
S&S	savings and slippage	WS	water supply
SWB	social well being	WTP	willingness to pay

T

T&A	time and attendance
TB	technical bulletin
TBA	to be announced
TBD	to be determined
TCM	travel cost method
TDY	temporary duty
TM	technical manual
TO	travel order
TPM	team project manager
TRC	technical review conference

U

UDO	undelivered order
UDV	unit day value
URA	Uniform Relocation Act
USACE	United States Army Corps of Engineers
USAED	United States Army Engineer District
USAED	United States Army Engineer Division
USATHAMA	United States Army Toxic and Hazardous Materials Agency